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DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1986

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

H.R. 3424

AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES, FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1986, AND FOR OTHER PURPOSES

PART 1—(Pages 1-408)

Department of Labor

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DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1986

TUESDAY, FEBRUARY 26, 1985

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9 a.m., in room SD–116, Dirksen Senate Office Building, Hon. Lowell Weicker (chairman) presiding.

Present: Senators Weicker, Proxmire, and Chiles.

DEPARTMENT OF LABOR

SECRETARY OF LABOR

STATEMENT OF FORD B. FORD, UNDER SECRETARY OF LABOR

ACCOMPANIED BY THOMAS C. KOMAREK, ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT

OPENING REMARKS

Senator WEICKER. Today we begin hearings on the fiscal year 1986 Labor, Health and Human Services, Education and Related Agencies appropriations requests, as well as fiscal year 1985 supplementals, rescissions or deferrals.

The committee will be reviewing appropriations requests totaling $101.4 billion for fiscal year 1986, which compares to $102.3 billion enacted for fiscal year 1985. Of the amount requested, $72.6 billion is for entitlement programs where spending is mandated by provisions of the law.

For discretionary programs, $28.8 billion is requested compared to $33 billion appropriated in fiscal year 1985.

Dollar amounts, particularly of the size usually confronted by this subcommittee, seldom by themselves present an accurate picture of human needs, and it is meeting human needs this subcommittee, perhaps more than any other, must address.

We will determine in our hearings what the dollar amounts in these voluminous budget books really portend for individual Americans seeking healthier, more productive, and more fulfilling lives.

Before we proceed, I have one request, and that is there be no smoking in the room, and that applies to all our hearings.

This will be the first set of hearings under the new staff director, John Doyle. All of those of you who had occasion to interact with Claudia can forget those good old days. She was a kind, sweet person, whereas John is much tougher—he's a conservative Republican from Connecticut, wise in political ways and has spent a good portion of his life in this type of work. So you all are stuck with John Doyle while I have Claudia as my wife. I got the better deal.

Mr. DOYLE. Thank you, Mr. Chairman.

Senator WEICKER. We are pleased to have with us this morning Under Secretary of Labor, Ford Ford, who also wears the hat of Secretary of Labor in other times past. It is nice to have you here. Why don't you proceed with your statement.

PREPARED STATEMENT

Mr. FORD. Thank you, Mr. Chairman. I would like to submit my formal statement for the record and, before questioning, highlight some of the key points in the statement.

[The statement follows:]

STATEMENT OF FORD B. FORD

I am appearing before you today to discuss the Department of Labor's Fiscal Year 1986 budget request, and its attendant 1985 rescission proposals. Over the next several days, other Departmental officials will appear before you to address the details of their individual requests. Today, I would like to highlight the most important aspects of the Department's budget proposals for 1986, as well as to touch briefly on the 1985 rescission proposals.

With regard to rescissions, the total budget authority rescission request is $275.3 million. In addition, we are requesting downward adjustments in limitations on nonappropriated funds totalling $41.3 million for a total reduction in availability of $316.6 million. Of these total reductions for 1985, $24.2 million is proposed under the Deficit Reduction Act, which directed the Administration to transmit draft legislation to achieve savings in spending on contracting, travel, printing, audiovisual activities, and motor vehicles. The remaining $292.4 million is composed of $72.9 million in rescissions of amounts added to the President's original 1985 request in five accounts, which cannot be justified at a time when we must constrain the Federal deficit, and $219.5 million related to excess carryover from Fiscal 1984 in the Summer Youth Employment Program and the Dislocated Workers Assistance Programs funded in the Training and Employment Services (TES) appropriation. The specific details of these rescissions are addressed in our justification materials.

The Department's 1986 request in total funding authority through this Committee excluding proposals for later transmittal is $8.45 billion, of which $2.64 billion is derived by transfer from trust funds. Discretionary program funding requested totals $6.77 billion, including $2.40 billion in Unemployment Trust Fund transfers for State Unemployment Insurance and Employment Service Operations. These requests reflect a government wide decision to freeze domestic programs at their 1985 level with some selective reductions to offset increases elsewhere. The remaining $1.68 billion of the total request is needed to meet entitlement program requirements, including Black Lung Disability Trust Fund benefits and Federal Employee Compensation Act benefits payments.

We are requesting $2.8 billion in the Training and Employment Services appropriations for funding of Job Training Partnership Act (JTPA) programs in 1986. Of this amount, almost 95 percent, or $2.65 billion is for grants to states. This includes $1.9 billion for the Block Grants program, $100 million for the Dislocated Workers Assistance Program, and $664.5 million for the

Summer Youth Employment and Training Programs. The remaining $155 million requested for TES is for federally-administered programs, of which $130.3 million is requested to provide national level programs for native Americans, migrants, and veterans, and $24.5 million is for program support and the National Commission for Employment Policy and the National Occupational Information Coordinating Committee. There is no new funding requested for the Job Corps in 1986, reflecting the Administration's decision to terminate operation of this program at the end of the 1985 program year, June 30, 1986. This residential training program now averages over $15,000 per year per slot. It can no longer be justified in light of relatively low completion and job placement rates and high costs, especially in comparison to the costs in the Block Grant program. In addition, we are not requesting funding for technical assistance and training as well as pilot and demonstration programs previously funded under the federally-administered portions of the TES appropriation. This is in line with the Administration's emphasis on locally designed and operated training and employment programs and continuing Congressional and Administration efforts to limit obligations for advisory and assistance services.

For the Older Americans program, we are requesting $326 million to fund approximately 91,000 participants, the same level as in 1985.

Our request for State Employment Service grants is $784 million, which as an exception to the general freeze provides for a two percent increase over amounts available to states in 1985. In addition, $1.64 billion is requested to fund 44,600 staff years to operate the Unemployment Insurance program. As another exception, the funding request contains an increase of $17.7 million for a quality control program aimed at increasing the accuracy of benefit payments and revenue collections. The staffing is based on a total unemployment rate of 6.9 percent and an insured unemployment rate of 2.8 percent in Fiscal 1986. In addition, we are proposing to transfer from the Unemployment Insurance portion of the State grants account to the Bureau of Labor Statistics (BLS) appropriation funding for the Employment and Wages (ES-202) program. This funding shift reflects further consolidation of national statistical programs under BLS in 1986.

In the area of entitlement programs, we are requesting $465 million in new funding for the Advances to the Unemployment Trust Fund and Other Funds account. Of the total advances amount requested, $385 million is expected to be used for the Black Lung Disability Trust Fund, and $80 million is for Federal Unemployment benefits paid through the Unemployment Trust Fund. We expect our proposal to increase the fees coal mine operators must pay into the Black Lung Trust Fund. To assure that the coal industry pays the costs of this work related disease will decrease the need for this Committee to provide appropriations for these advances. In the Federal Unemployment Benefits and Allowances account, we are requesting $10 million, divided equally between Trade Adjustment benefit payments and Redwood Program allowances.

Our funding requests for the salaries and expenses accounts are based on a number of concepts which underlie the President's total budget request for 1986. The program amounts for these accounts are generally frozen at 1985 levels after being adjusted for the Deficit Reduction Act 1985 rescission amounts and the pay supplementals we are requesting. The most notable exceptions to this freeze are the increases provided for BLS to keep the major revision of the Consumer Price Index (CPI) on schedule and to improve state agency wage and employment data bases which are so important to various BLS statistical series. These accounts are further adjusted for a ten percent reduction in administrative costs, and are also reduced by the proposed five percent cut in federal salary levels.

In addition, the overall staffing of the Department is affected by several management initiatives proposed to be effective in Fiscal 1986. These are: (1) streamlining our regional operations by eliminating, in the smallest regions, unnecessary overhead positions, while consolidating oversight in the contiguous regions; and (2) consolidating certain administrative processing functions -- which are currently dispersed among the agencies in the national capital region -- into central service operations, resulting in staff savings in the Department as a whole.

The total 1986 request for staffing and related costs for carrying out the Department's various responsibilities is $1.21 billion. Pay supplemental requests for 1985 total $7.8 million. The authorized position request totals 17,821, a reduction of 916 below the comparable level of 18,737 in 1985. The largest portion of this reduction is in the Employment and Training Administration, in which the staff associated with the programs expiring or being eliminated -- Trade Adjustment Assistance, Job Corps, and the Work Incentive program (WIN) -- will no longer be needed.

The details of reduction in staff requests in other appropriations are found in our justification materials. I should point out that at these reduced levels, we feel that we can meet legislative mandates, and that there will be no adverse effect on major enforcement activities.

I believe that this is a responsible budget, which attempts to meet critical goals of reduction in federal spending while still being able to allow us to meet our responsibilities to American workers. I will be happy to answer any questions that you have.

BIOGRAPHY OF FORD B. FORD

Ford Barney Ford's appointment by President Reagan as Under Secretary of Labor was confirmed by the United States on July 12, 1983.

He had been serving as Assistant Secretary of Labor for the Mine Safety and Health Administration, a position to which he was appointed by the President in 1981.

Before coming to Washington, Ford served in a variety of capacities in the California state government, including important subcabinet positions in Governor Reagan's administration in Sacramento.

Ford was born in Norton, Virginia in 1922. He graduated from high school in Norton in 1941 and was working in the gunpowder laboratories of the Hercules Powder Company in Redford, Virginia, when he was awarded a cadetship in the Vigrinia Military Institute. He and his entire class of about 200 cadets enlisted in the armed services in 1943.

After earning his commission at Fort Benning, Georgia, he joined the 28th Infantry Division as a rifle platoon leader during the Battle of the Bulge. Following the surrender of Germany, he was assigned to the Second Infantry Division and was in California waiting to be sent to the Pacific when that war ended.

Ford was discharged as a first lieutenant and pursued his education at the University of California at Berkeley where he earned a Bachelor of Science degree in production management and control.

He started his adult working career managing a Coca-Cola Bottling Company plant in Bishop. When that business was sold, he became a certified construction inspector for tunnel driving and powerhouse construction for the City of Los Angeles' Owen Gorge Project. He is registered in California both as a safety engineer and an industrial engineer.

Ford was then appointed acting postmaster of Bishop, serving from 1951 to 1954. During this period, he also served twice as the commander of Veterans of Foreign Wars Post 8988.

In 1955, he joined the staff of the California Legislature's Bipartisan Joint Legislative Budget Committee. Four years later, he became executive director and chief consultant to the California Senate Fact-Finding Committee on Natural Resources.

It was Governor Reagan who appointed Ford in 1967 as Deputy Secretary of the California Resources Agency, a state organization of 12,000 employees. As Deputy Secretary, he was chief administrative officer for that agency.

In 1973, Governor Reagan asked Ford to establish the California Occupational Safety and Health Appeals Board. He served as the board's chairman and public member until 1978. Leaving to become Vice-President of the California Institute of Industrial and Governmental Relations, a private consulting firm specializing in state occupational safety and health matters.

Ford resides with his wife, Norma, in Woodbridge, Virginia. They have a son, Robert Ford of Sacramento, in the machinery repair business. A younger son, Jack Ford, died in 1981. They are proud grandparents of five beautiful granddaughters.

BUDGET HIGHLIGHTS

Mr. FORD. We are requesting changes to our 1985 enacted levels totaling $316.6 million. A portion of this amount is related to the Deficit Reduction Act requirements for reductions in certain categories. Another portion is related to excess availability in the Summer Youth Employment Program and the Dislocated Workers Assistance Program. The remainder is related to amounts added to the President's budget for 1985 that we feel cannot be justified in a time in which we must constrain Federal spending.

Our request for appropriations in fiscal year 1986 totals $8.45 billion. Of this amount, $6.77 billion is related to discretionary programs, and $1.68 billion is required for entitlement program needs.

Our request for entitlement programs is consistent with overall economic estimates. The framework within which the request for our discretionary funding was developed included a Governmentwide freeze at 1985 levels. The salaries and expenses amounts were further adjusted by a 10-percent reduction in administrative costs for reductions related to management initiatives and by amounts related to the proposed 5-percent cut in Federal salary levels.

Federal staffing is reduced about 900 from 1985 levels. At these levels, we can meet our legislative mandates, and there will be no adverse effect on major enforcement activities.

The request for State-administered employment and training programs, such as the Block Grant Program and the Dislocated Worker Assistance Program, remain essentially steady.

We are proposing no funding for the Job Corps or for national level pilots and demonstration and training and technical activities. We do have some increases in the State unemployment operations areas for the quality control activity and in the Bureau of Labor Statistics to continue the essential Consumer Price Index revision.

This 1986 budget is being submitted to you at the beginning of the second half of President Reagan's administration. As such, it represents a continuation of the beliefs and goals and policies that the President put in motion.

We, in the Department, are proud of our record in reducing the size of our budgets while working to improve the management of our programs. However, we still have much to do, and we look forward to working with you to obtain the resources for our efforts.

I will be happy to address your questions.

Senator WEICKER. Thank you very much.

BUDGET REDUCTIONS

Last year, the Labor Department had what one would call a standstill budget request. This year you propose more than a dozen rescissions, as well as total elimination of several programs, involving hundreds of millions of dollars.

Did you voluntarily offer these cutbacks, or were they imposed by OMB?

Mr. FORD. They are partially congressionally mandated in the Deficit Reduction Act and the Treasury Postal Service Act. We in the Department developed certain items as being excess to our needs, in excess to program needs. The 10 percent administrative reductions in salaries and expenses accounts was a Governmentwide effort which you might say is monitored by OMB for consistency as is the 5-percent reduction in the salaries.

ELIMINATION OF JOB CORPS

Senator WEICKER. Now, why don't you tell me a little bit about the reasoning for your total elimination of the Job Corps.

Mr. FORD. The Job Corps Program has grown in cost per enrollee to $15,000 per slot. We anticipate in another 2 years it will be well beyond that level. We, of course, accept the fact that it has been a major benefit to some individuals who have gone through the program. However, the overall cost of the program, we feel, does not justify a continuation, particularly in view of the capital expenditures that need to be added on which have not been figured into the $15,000 per slot.

The JTPA Program, title II, mandates at least 40 percent of that program be expended for youth between the ages of 16 and 22. We feel that addresses and can address part of the population that normally goes to the Job Corps centers. But in the overall context of a reduction of the deficit, the priority programs, and the availability of other programs, we feel Job Corps can be eliminated.

JOB CORPS UNIT COSTS

Senator WEICKER. Let me give a little background here. The chart you submitted for last year's hearing record shows an estimated cost of $5,252 for each Job Corps participant, that being adjusted to 1984 dollars.

Why do you keep emphasizing that Job Corps costs $15,000 per slot when, obviously, more than one youth occupies the same slot during the course of the year?

Mr. FORD. As you know, Mr. Chairman, a number of the enrollees do not finish their full course program. Only about 35 percent do. You have a high dropout rate for a number of reasons. But the full advantage of the program is designed for full program completion, and a completion rate of 35 percent, unfortunately, forces us to look more at the overall cost per slot than it does to the individual who may not be receiving the advantages that we would hope they would get under the Job Corps Program.

Some 27 percent of the enrollees leave before the first 3 months are up; some 16 percent go AWOL; and about 11 to 13 percent are removed for disciplinary reasons. So the value of the program really is within that 35 percent range.

Senator WEICKER. I have to tell you that I think it is very misleading to use that figure when, indeed, we have a participant cost in the amount I have indicated to you.

Counsel advises me that 35-percent figure which you quote doesn't count placements in further education, which raises the successful termination percentage to 63 percent.

Mr. FORD. I was referring to the 35 percent that complete their course; I wasn't speaking of the placements. There are a number of estimates in the placements. I am aware of the programs, the studies, that have been completed started prior to doubling of the Job Corps.

While we have quoted a 35-percent placement rate, there has been an increase in recent months in the placement rate, but it's not the same program now, as when the study was done that resulted in the 35-percent placement rate.

We prefer to address the whole issue as to its total costs and the placement rate, and the placement cost. When one compares JTPA and the Job Corps, one finds it costs about three to five times per participant in the Job Corps than under the JTPA.

Senator WEICKER. We are going to review the Job Training Partnership Act here this morning. The 63-percent successful termination figure is your figure from last year's hearings. The $5,252, to be exact, that was your testimony at last year's hearings. Now, in order to fit ourselves in with the President's or Mr. Stockman's philosophy with these different sets of figures, even to the point a superb editorial, I might add, in today's New York Times, the Times itself is accepting that $15,000 figure in relating their reasoning to it. They shouldn't.

They should relate to the $5,000 figure, which is really even higher than the figure that you have for your Job Training Partnership Act of $3,287. I might add, I want that editorial made a part of the record. It's about as succinct description of what is at issue here as anything I have seen.

[The information follows:]

[From the New York Times, Feb. 26, 1985]

KEEP THE JOB CORPS: IT WORKS

The Reagan administration is a relentless critic of Great Society programs that don't work. Why, then, is it so eager to eliminate the Job Corps, which does?

The administration says programs created under the Job Training Partnership Act, enacted in 1982, serve the same disadvantaged groups as the Job Corps, but far more efficiently and at substantially lower cost. There's only one problem with this claim: It can't be proven and actually appears to be false.

The Labor Department so far has issued data on the first 9 months of Partnership Act programs, ending last June 30. They show positive terminations—jobs, additional schooling or military enlistments—for 63 percent of the 153,400 young people who passed through the programs during that time. The average cost was $3,287.

By comparison, the Job Corps' numbers seem unimpressive. Only 35 percent of those who enroll in the Corps complete a training program, although three-fourths of these graduates have positive terminations. And the average annual cost for each of the Corps' 40,500 training slots is almost $15,000.

But the disparity in success rates seems to reflect less what takes place in the programs than what they start out with. Not every disadvantaged persons is equally disadvantaged. And independent studies suggest that most of the young people in the job training partnership programs could not be called hardcore.

The Job Corps, however, has a well-documented 20-year record of taking the toughest cases, youngsters already well down the road to perpetual joblessness, dependency or ciminality. A recent study found only 15 percent had high school diplomas; 38 percent had arrest records. In such cases, the investment must necessarily be greater. But for each success, the payoff—both for the individual and society—also is greater.

Senator Orrin G. Hatch of Utah, a Republican and a conservative, understands this and is leading the fight in Congress to save the Job Corps. That fight should not even be necessary. And it wouldn't be, if the administration would appreciate the value of things as well as their price.

JTPA UNIVERSE

Senator WEICKER. That brings me to the JTPA. I think it incumbent again in the sense of full disclosure of the administration for you, Mr. Ford, to describe exactly what is involved in terms of the universe, the humanity here as between these two programs.

You are drawing from two different universes as far as the programs are concerned. The Job Corps, as I would say, cuts below the universe of the JTPA. I am talking about youngsters that come from a background of broken homes, of alcohol, of drugs, of arrest—it's the toughest universe to deal with. That is the Job Corps; it is not JTPA.

Mr. FORD. Certainly, Mr. Chairman, I accept that and recognize that. There are, however, 22 percent of the Job Corps enrollees who have a high school education and would not be in the category that you mention.

Also, many of our States have programs that serve this same population that you just described, and community-based operations, like the Boys Club of America and others, are working very effectively in these areas.

So the Job Corps' serving of an average of 100,000 nationwide in program year 1984 doesn't take the entire universe of that category of individuals that you mention. It is a difficult area.

The issue we are addressing is the cost of the program, the availability of other programs that, hopefully, can address that same population, but in the overall deficit reduction, we must address our major national need.

CONCERNS ON ELIMINATING JOB CORPS

Senator WEICKER. I am going to request of you, and I might add, all those that follow, I am not interested in the course of these hearings in the overall Government budget. That's a nonending affair where I will give my views on defense and everyone will give their views on defense. I am only interested in those areas with which you are charged responsibility.

In terms of the Job Corps, which we are now discussing, and its utility and its cost-effectiveness, I might suggest to you failure to do its job is going to incur far greater out-year costs in terms of this population, this universe, and the money we spend in terms of training, albeit the percentage maybe isn't as high as any of us would like. Still, how many do we figure between, or according to your figures last year, what, 63 percent, including further education? Boy, that's a heck of a figure when you consider the population you are starting with as to where they could end up in terms of cost to society. I think that is what you have to go with.

The measure worries me so much, and I will continue to emphasize this point throughout these hearings, not just the Job Corps, but in terms of NIH, in terms of education, in terms of science, et cetera, is that whatever budget savings are achieved this year, there is an out-year cost that will be just staggering.

It is up to me, very frankly, it seems to me my job as a legislator, if I am doing a good job, is not to create a crisis, but to anticipate it and avoid it entirely. That's the category that I place the Job Corps in.

TIMING OF JOB CORPS PHASEDOWN

You are planning to shut down all 107 Job Corps centers by June 30, 1986, diverting funds in the fiscal 1985 Labor-HHS regular bill to cover the closeout costs.

I think that's contemptuous, and that is the kindest word, of Congress to utilize enacted Job Corps appropriations to dismantle the program without asking permission, or do you intend to wait until Congress has acted on your 1986 budget before taking any steps to close down operations?

Mr. FORD. We fully expect to wait until Congress takes action. Autumn of this year would be the time when we would start phasing down the entrant levels and, hopefully, Congress will have made its decision by then. Obviously, no action will be taken until Congress does make its decision.

Senator WEICKER. That was my next question. You are going to assure me then the Job Corps is going to continue in full operation—full operation—including necessary staffing and then take new enrollees until Congress has acted; is that correct?

Mr. FORD. Anticipating, hopefully, that we will have a sense of Congress before autumn.

Senator WEICKER. I think it is safe to say right now, and I think you should be on notice; I don't have to tell you that the chairman of the authorizing committee, at least in the Senate, has indicated his opposition to this termination, and I am telling you that as the chairman of the appropriating committee, I am opposed to this termination.

The odds are this is not going to be terminated by Congress. I would hope that would be even additional incentive to making sure the program continues, never mind following the law as it is now written.

I repeat, the question as far as the staffing, the intake of new enrollees is continuing per the situation at best; is that right?

Mr. FORD. It is continuing. As I say, the plan would be to start phasedown in autumn. But we will await the sense of Congress. Mr. O'Keefe, who follows me today, will be more specific.

SUMMER YOUTH JOBS PROGRAM

Senator WEICKER. Your budget request would provide for enrolling only 700,000 in the 1987 Summer Youth Jobs Program, a reduction of nearly 120,000 from the level intended by Congress for the upcoming summer.

You are also requesting elimination of the Targeted Job Tax Credit Program, which the Labor Department estimated as serving 50,000 youth last summer.

Again, would you explain your rationale for these cutbacks?

Mr. FORD. The rationale for the reduction in 1987 summer year is approximately a 9-percent reduction in the anticipated number of youth in that age category to be served. It would be the level program that was anticipated by Congress in appropriating funds for the 1985 and 1986 summers. The targeted job tax credit, as part of the tax simplification program, is an area that the administration is not supporting for continuation because of the economic recovery. Those are the basic points.

Senator WEICKER. I would like to know how the economic recovery has in any way impacted upon the figures and the universe served by these two programs?

Mr. FORD. The Summer Youth Program will stay level except for the summer of 1987; then some 60,000 will be reduced, by our figures, rather than 120,000.

In the summer of 1987 program, due to the reduction of the anticipated numbers of youth in that age category, approximately 9 percent, but the level will remain the same in 1985 and 1986.

Senator WEICKER. Counsel indicates to me reduction of over 120,000.

Mr. FORD. I would like to correct myself. I have just been told we are requesting a $60 million reduction in 1986; 120,000 participants below the level assumed to be supported by the 1984 appropriation fund and subsequent supplemental.

Senator WEICKER. Why are we doing that? What is the rationale for that? Again, the population being served here, unemployment has not gone down. Unemployment is as high as it has ever been. I can understand that certain areas of the economy clearly benefit from the administration's program, but the youth served by these programs, there has been no change in it at all. In some cases, the figure has gone up.

Mr. FORD. We have level funding for the Summer Youth Employment Program through 1985-86. We asked for a rescission of $100 million which was not utilized and would be excess to fund the population being served. We feel the JTPA Program has been very responsive in getting youth into the private sector jobs and others through the Dislocated Worker Assistance Program. The summer youth jobs particularly take care of those youth in public service types of activities that would not otherwise have jobs.

POSSIBLE NEW YOUTH ADMINISTRATION INITIATIVES

Senator WEICKER. Is your cutback in this area predicated upon any new administration initiatives being enacted?

Mr. FORD. It's not predicated on that basis at all. It is strictly a percentage reduction based upon percentage reduction in the youth in that age category. Youth population is declining reflecting the end of the baby boom.

Senator WEICKER. According to the Bureau of Labor Statistics, this country's youth population declined by nearly 2 million between 1975 and 1984. It is a decline that is expected to continue over the next several years. However, the number of unemployed black and Hispanic teenagers actually increased during this period even though the national unemployment rate fell, even though the youth population fell.

That's my problem with what you are doing. I grant you, the youth population has declined; unemployment has declined, but in the categories serviced by this program, that has been on the increase. How is that possibly going to justify cutting back on the program?

Mr. FORD. The increase in those categories is very definitely acknowledged. That has happened over the years unrelated to the Summer Youth Program. We do support continuation of the Summer Youth Program. But we are proposing, and will continue to propose, the Youth Employment Opportunity Wage Act, which will speak specifically to those categories.

Senator WEICKER. Now, Mr. Secretary, I asked you whether these figures were predicated upon that——

Mr. FORD [interposing]. No, sir.

Senator WEICKER. They are not predicated?

Mr. FORD. They are not predicated.

Senator WEICKER. What we are really calling for is a budget cut for whatever reasons, but certainly not reasons substantiated by the unemployment figures of this population. There might be other reasons for cutting the budget—I am not arguing that—but certainly not supported by the numbers of unemployed Hispanic and black teenagers.

Mr. FORD. It is strictly a percentage reduction related to the total age category, sir.

Senator WEICKER. Senator Proxmire.

VACANCIES IN HIGH LEVEL POSITIONS

Senator PROXMIRE. Secretary Ford, happy to see you. A number of high level positions at the Labor Department are currently vacant and some have remained vacant for a very long time. For example, the job of Assistant Secretary for Policy has been vacant since March of 1983. When do you expect that position to be filled?

Mr. FORD. I can't give you an exact date. The Chief of Staff to the Secretary was also Deputy Assistant Secretary for Policy and maintained, you might say, active management of that while he was there. He just recently left. Hopefully, we will get to that soon.

Senator PROXMIRE. Almost 2 years does seem a long time for that important position to remain unfilled. How about the Office of Federal Contract Compliance which has had an acting director since December 1983, over 1 year. When do you expect that position to be filled?

Mr. FORD. We hope to have that filled very soon.

Senator PROXMIRE. Currently the position of Assistant Secretary of Labor Management Standards has been vacant since March 1983, again almost 2 years. When do you hope to fill that slot?

Mr. FORD. We hope to resolve that issue very soon. As you know, the LMSA separated into three different program heads—the Bureau of Labor Management Relations and Cooperative Programs; the Office of Pension and Welfare Benefit Programs; and the Office of Labor-Management Standards is the third. We are studying that, and certainly plan to fill that position under OLMS because the Director of the Office of Pension Welfare Benefit Program, manages separately. It had originally been part of the LMSA.

Senator PROXMIRE. When you say you expect to fill these programs shortly, do you mean in the next month or two?

Mr. FORD. It is difficult for me to say exactly when. Let's say OFCCP interviews are actively going on right now.

ADDITIONAL WAGE-HOUR RESPONSIBILITIES

Senator PROXMIRE. Mr. Ford, as you know, last week the Supreme Court ruled that State and local governments must obey Federal wage and hour standards in dealing with State and local employees. That decision substantially increases your department's responsibilities by requiring you to make sure that millions of public employees are receiving the Federal minimum wage and are being treated in accordance with federally mandated standards.

How do you intend to deal with those added responsibilities?

Mr. FORD. We are examining the impact of that right at the present time. Sue Meisinger, Deputy Under Secretary for Employment Standards Administration, is doing a detailed analysis on what the implications are as far as additional responsibilities of the department and will be advising us very shortly.

Since this decision just came out, we have to almost——

Senator PROXMIRE [interposing]. Well, does it make any sense, in view of these added responsibilities, to reduce your staff for the enforcement of wage and hour standards by 50 in fiscal year 1985 and another 26 in 1986, as you propose to do in your budget submission?

Mr. FORD. We haven't examined the relationship and the impact of that decision on that proposal, but we feel that we can accomplish the responsibilities of wage and hour standards very adequately and, in fact, have through administrative changes and procedures accomplished more enforcement activities over the past year.

Senator PROXMIRE. How big a cut is that percentagewise? You are cutting 76 positions altogether in 2 years. That is a substantial reduction, isn't it?

You are cutting 50 positions in fiscal 1985 and 26 positions in 1986, a reduction of 76 positions despite your increased responsibilities.

Mr. FORD. It's about 5 percent.

APPEAL OF WHISTLE BLOWER DECISION

Senator PROXMIRE. I hope you will reconsider that 5-percent cut. The Supreme Court decision was very recent and it seems to me the effect of that decision on your operations ought to be considered.

Mr. Secretary, a recent article in the New York Times indicated the Labor Department had made no decision on whether to contest a fifth circuit court of appeals judgment that would weaken the protection given whistle blowers in the nuclear power industry. The court said these whistle blowers were protected by Federal law if they reported safety problems directly to the Government but could be fired if they reported safety problems to a private employer. There apparently are reports the Department might adopt this fifth circuit ruling as its policy in arguing another case.

The New York Times article says lawyers at the Nuclear Regulatory Commission feel letting the fifth circuit decision stand would affect safety enforcement in other areas in which there are whistle blower protections, such as toxic waste disposal. Have you decided whether or not to appeal that case?

Mr. FORD. No, sir, we have not. We are in communication with NRC. We are accepting their expressions of concern, and that decision ought to be made soon.

Senator PROXMIRE. Will you inform the subcommittee when you do make that decision?

Mr. FORD. Yes.

INTERNET

Senator PROXMIRE. Secretary Ford, according to an OMB report entitled, "Management of the U.S. Government" that came out last Wednesday, the Department of Labor is preparing plans for providing State-administered public assistance agencies with access to the Internet network to help determine whether public assistance applicants in one State are receiving wages or unemployment insurance benefits in another State. That cross-check is supposed to result in administrative and program savings.

How much will it cost to implement that plan, and how much do you think it will save?

Mr. FORD. Currently, Internet is a totally voluntary State program of cross-checking through two centers, we are actively considering at the present time how it can fit into the Governmentwide requirement for the reduction in fraud, waste and abuse. At this point we have not made any specific decisions. As I say, it is being used by several States on a voluntary basis.

Senator PROXMIRE. My question was how much will it cost to implement the plan and how much will it save.

Mr. FORD. I will have to get that information for you. To my knowledge, there is no Federal cost plan in the Internet system, but if it is expanded, if there is some other use to be made of it, that will have to—we will have to make a decision.

Senator PROXMIRE. When do you expect to be able to make that decision?

Mr. FORD. That is under active consideration by a working group in the Government at the present time. I can't give you——

Senator PROXMIRE [interposing]. I don't mean for you to respond now—perhaps it will take some time to finalize your strategy—but would you tell us for the record as precisely as possible when the plan will be implemented and provide a list of milestones——

Mr. FORD [interposing]. We will.

POLITIZATION OF BLS STAFF

Senator PROXMIRE. A recent article in the Federal Times indicates BLS Commissioner Janet Norwood is concerned that the Department's plan to give your Assistant Secretary of Administration and Management, Mr. Komarek, authority over the BLS personnel system would allow the Reagan administration to politicize BLS's statistical efforts by controlling the distribution of staff within the Bureau. How do you respond to that, Mr. Ford?

Mr. FORD. Senator, Secretary Donovan and I have consistently insisted that BLS be outside of any influence of any political pressure. What we are looking at here is that the possibility of any savings that may come from ministerial types of activities in the National Capital Service Center with management prerogatives untouched.We are currently discussing these things with Dr. Norwood, who is well aware of our assurances that we are not going to have the National Capital Service Center in a position to be making the types of decisions that you and others are concerned about that we have not given her the freedom that is required for her to be able to stand before your committee and say she has had no adverse pressure.

Senator PROXMIRE. I will tell you, I'm very, very concerned about this. As you know, about 10 years ago the head of the Bureau of Labor Statistics made an interpretation of unemployment statistics that the Nixon administration felt was damaging to their position. The person who made that interpretation was fired and Bureau press conferences were ended.

After that, the Joint Economic Committee had to have regular hearings in order to get the Bureau's unemployment statistic testimony on the record. Your administration and the Carter administration both have been very good in this respect, very careful to make sure the Bureau is insulated from political influence, but it is a very tempting target.

There is no more important statistic than the unemployment figures. If there is any cooking of the numbers in the 3, 4, or 5 months before an election, it can have a profound effect on the election and, of course, it can absolutely destroy the effectiveness of the Government's statistics generally, which are so critically important.

I just can't stress this strongly enough because there is a political temptation here. I would hope and pray that you recognize that and do your very best to insulate the Bureau. That is why, it seems to me, you might want to reconsider giving your Assistant Secretary for Administration, Mr. Komarek, authority over the BLS personnel system.

Mr. FORD. We have not provided that authority.

Senator PROXMIRE. In the Federal Times, the following observation is made:

> If the bureau wanted to do a study that might not reflect well on administration policy and needed to move people around to do it, Komarek could just refuse to approve the transfer.

Mr. FORD. I think that is subjective because we have the greatest respect for the independence and the professional makeup of the BLS.

Senator PROXMIRE. I just have two more questions, and I apologize to Senator Chiles.

PRODUCTIVITY IN THE DEPARTMENT

Last year in the course of our discussion on productivity, Mr. Komarek supplied information for the record indicating that between fiscal year 1981 and fiscal year 1982, productivity in the department increased by 5 percent. That is a pretty impressive increase. What do your latest figures show?

Mr. FORD. An 11-percent increase in 1983 over 1982. We are sensitive to that.

Senator PROXMIRE. Why does it take 2 years to assemble that data?

Mr. FORD. Tom, can you comment?

Mr. KOMAREK. The different agencies throughout the Government report their statistics to the Bureau of Labor Statistics. BLS must have time to analyze that data and look at it and make sure it is correct, that's what takes the time. Collecting it throughout the Government, making sure it meets the BLS test of accuracy, et cetera, and then getting it published Governmentwide is what takes the time.

Senator PROXMIRE. I said your 5-percent productivity increase was impressive. You are telling me that your most recent increase was 11 percent. That's remarkable. Will you give me as much of a detailed breakdown of that increase for the record as you can?

Mr. FORD. Yes, we will.

Senator PROXMIRE. That is astonishing. I can remember that only a few years ago the statement was made there was no productivity increase in general throughout Government. If you can show a 11-percent increase in 1 year, we ought to see if we can spread the word around as to how you did it.

Mr. FORD. We will provide that information. Thank you, sir.

[The information follows:]

PRODUCTIVITY

It is very difficult to pinpoint the precise reasons for the increase in productivity. Many factors have been operative. For example, the Department has attempted to improve its operations by consolidating some programs, by carefully controlling work flow and by using more office automation. Also, as the number of employees have been reduced there has not been a need to recruit and train new employees, and we have a much more experienced work force today than we did in 1980.

REDUCTION IN LABOR RACKETEERING

Senator PROXMIRE. I have some more questions for the record. I will yield my time.

Senator WEICKER. Senator Chiles.

Senator CHILES. Thank you, Mr. Chairman. Secretary Ford, I want to welcome you to our committee. The Department of Labor recently submitted to the Appropriations Committee its proposed rescission that applies to the Deficit Reduction Act. One cutback in the funding tremendously disturbs me. I see it as the opening salvo by the Department in yet another battle over whether the Department is going to do what the Congress told it to do; that is, enforce the laws against labor racketeering.

The Department is attempting to cut back operational funds for the Office of Labor Racketeering at a crucial time in the office's development. The dollars are relatively small—$114,000—but the impact, however, will be quite significant. It will mean some curtailment of vital investigative efforts, and it signals to me that, once again, the Department of Labor is retreating from the problem of labor racketeering. I believe, in fact, there has been a longstanding bias within the Labor Department that somehow it shouldn't be in the business of seeking out corruption in the labor movement.

The Permanent Subcommittee on Investigations has developed a clear and convincing case exposing this corruption in our hearings—waterfront corruption in 1981; Hotel and Restaurant Employees Union in 1982–83; organized crime in the Mid-Atlantic in 1983. These hearings showed legitimate labor unions have fallen victim to the corrupting influence of organized crime. They sounded the warning that over $800 billion in assets of pension benefits would remain a lucrative target for organized crime, and they laid the foundation for passage of legislation that makes it very clear that the Secretary of Labor has not only the authority, but also the responsibility for the detection, the investigation and referral of violations of ERISA and related Federal law.

Congress has identified the problem and has given the department the responsibility and the resources to get on with the job, and now we have this telling indication that the department is pulling back.

I am sure the claim will be made these are merely administrative savings that will not disrupt enforcement activities, but I don't believe that is the case. The inspector general of the Department of Labor, in a letter to me, states that such a reduction would seriously impair the ability of this office to investigate organized crime and racketeering activities in the labor and management field in support of Department of Justice prosecutive priorities.

Specifically, the Office of Labor Racketeering will discontinue development of national investigative projects designed to identify criminal monopolies in three industries. It is my understanding that these industries are potentially major targets with evidence of organized crime involvement. The personnel slots to undertake the sophisticated complex work to acquire deep knowledge about these industries and map out a comprehensive plan of action will not be filled. It strikes me, Mr. Secretary, that if a $6.3 billion agency has to look for $114,000 in savings in this office with the effect of hampering investigations that may save millions of dollars of hard-earned pension funds, then this agency is simply not committed to the task assigned to it by Congress.

Mr. FORD. Senator, Secretary Donovan and I are very much aware and sensitive to the responsibilities, and there has been heavy activity, heavy activity supported by the Secretary. Perhaps Mr. Hyland can expand in his comments to you our figures.

As you may know, the Office of the Inspector General really gains 29 FTE's in the 1986 fiscal year, one of the few increases. It maintains a level of 557 positions. That is a reduction in contract plans and reduçtion in automobile usage. But the figures I have indicate that in the labor racketeering area, there has been assignment of FTE's of 94 in fiscal year 1984 to 104 in fiscal year 1986, an increase of 11 percent, or 10 positions to work in that area.

In the ETA State employment services agency UI programs, I know you are speaking specifically of the Office of Organized Crime——

Senator CHILES. Absolutely.

Mr. FORD. That we do show the increase in the FTEs in that area. The management prerogatives obviously are that of the inspector general, the independence that office is to retain we respect.

We know that they were looking into three different areas to initiate investigations and accept the fact that will defer that problem.

Senator CHILES. Well, you have got a little over 100 slots in the organized labor racketeering area.

Mr. FORD. One-hundred four.

Senator CHILES. That's right. How many of these slots are not filled? Congress gave you four additional positions last year, and you haven't filled those. You have got 18 vacancies in those slots. So when you start talking about slots, you have 18 vacancies and 4 you didn't fill we gave you last year.

Mr. FORD. Can I ask Mr. Komarek to respond?

Mr. KOMAREK. The reason the inspector general did not fill those slots last year is because their dollar budget was underfunded for the number of FTE slots they had. They were making choices to pursue such things as computer acquisitions and other things, and they were short on dollars.

One of the increases that is proposed in our 1986 budget is what the Under Secretary just referred to was being sure the inspector general had a fully funded budget which allowed them to fill those positions.

Certainly those positions were not filled last year only because of the funding shortfall and not because of any intent of management.

Senator CHILES. Doesn't the inspector general say that without the funds we are talking about here, there is no reason for him to fill the slots? They won't have the operating funds to do anything?

Mr. KOMAREK. We have tried to make very sure, Senator, that the inspector general had their FTE's and positions fully funded in the 1986 budget.

LAW ENFORCEMENT IN OFFICE OF LABOR RACKETEERING

Senator CHILES. Would you say, Mr. Secretary, the Office of Labor Racketeering has a law enforcement component to it? Just by its very title of "Labor Racketeering"?

Mr. FORD. In the technical sense of——

Senator CHILES [interposing]. Technical or any other way. I am just asking you, is that a law enforcement function?

Mr. FORD. Certainly they work with Justice; with others in the enforcement of law. I would have to say, yes, sir.

Senator CHILES. And they are looking to determine whether legitimate working people are being preyed upon by racketeers, are they not?

Mr. FORD. That's correct.

Senator CHILES. Well then, why when the inspector general asked for a law enforcement exemption from these cutbacks, why weren't they given an exemption? Why wasn't he given an exemption for this area? You can't answer.

Mr. FORD. No, sir.

Senator CHILES. I would appreciate it——

Mr. FORD [interposing]. I can give you an answer for the record.

Senator CHILES. I would appreciate that very much.

[The information follows:]

LETTER ON THE OFFICE OF THE INSPECTOR GENERAL'S RESCISSION

The following letter was sent to Senator Chiles on March 13, 1985, in response to his inquires regarding the Office of the Inspector General's Deficit Reduction Act rescission.

LETTER FROM FORD B. FORD

MARCH 13, 1985.

HON. LAWTON CHILES,
U.S. Senate,
Washington, DC

DEAR SENATOR CHILES: At the February 26 appropriations hearing before the Senate Appropriations Subcommittee on Labor, Health and Human Services, and Education, I promised to look into the allocation of the $114,000 reduction by the Office of Inspector General for their proportionate share of reductions applicable to section 2901 of the Deficit Reduction Act of 1984.

As you know, the Deficit Reduction Act charged the administration to reduce fiscal year 1985 appropriations by $2.1 billion in five selected areas and to report to the Congress these amounts or explanations why these amounts could not be achieved.

Recognizing the concerns of the Congress, as well as the objectives of this administration to reduce the Federal budget deficit, the Department of Labor [DOL] proposed reductions that would achieve $24.2 million, 72 percent of its deficit reduction target.

In our discussion, you mentioned specifically the possibility that there might have been an exception to these reduction efforts for law enforcement activities. As the conference report accompanying the Deficit Reduction Act indicates, the exception for law enforcement activities was connected with Senate action on the reduction effort. The law as enacted mentions no such exception, and the instructions from OMB, which had the responsibility for responding for the administration to the legislated directive, contained no provision for exceptions.

Like all departmental managers, the inspector general had unrestricted latitude to allocate these reductions among his program activities to lessen the severity of the impact.

I have shared your concerns on the proposed Deficit Reduction Act allocation to the Office of Labor Racketeering with the Office of Inspector General.

After detailed discussions, both Inspector General Hyland and I believe that other program alternatives are available and that general economies can be achieved within the overall inspector general's account. This would permit the Office of Labor Racketeering to continue existing efforts as well as to initiate development of national investigative projects designed to identify criminal monopolies in three industries.

Should you require additional information on this matter, please do not hesitate to contact me.

Sincerely,

FORD B. FORD.

ORGANIZED CRIME IN LABOR UNION MOVEMENT

Senator CHILES. Let me ask you this. In testimony before the Permanent Subcommittee on Investigations, the former Secretary of Labor under another administration, Ray Marshall, indicated he thought the problem of organized crime involvement in the labor union movement was a very small one; is that your view?

Mr. FORD. I know that the efforts of our own inspector general and the Justice Department have indicated that there have been problems and they are being addressed.

Senator CHILES. Given the amount of money that is in the pension funds that I talked about, do you think there is any reason that would not be a prime target of organized crime?

Mr. FORD. It has been, and it has been addressed; yes, sir.

Senator CHILES. As far as I know, the *Provenz* and *Crime Group* case led to a civil RICO judgment against 10 racketeers who also were removed from union office and prohibited from union activity or any involvement in employee benefit plans. Is there a capacity now that resides in Justice or anywhere else in Government where the kind of sophisticated, indepth investigative work necessary to put a case like this together can be done?

Mr. FORD. Well, I think the Central States teamsters fund constitutes the type of activity you are talking about. It has been accomplished and has recently resulted in settlement that took years of activity by the inspector general and by Justice.

Senator CHILES. It wasn't done just with Justice; it was done with using——

Mr. FORD [interposing]. Our efforts.

Senator CHILES. Your efforts.

Mr. FORD. As well.

Senator CHILES. The rescission message, and in your statement, you indicated if this rescission is implemented, the Office of Labor Racketeering will discontinue development of national investigative projects designed to identify criminal monopolies of three industries. What industries are those? I will help you. They are the garment industry; the motion pictures; and trade shows and exposition industries.

Is there reason to believe organized crime is involved in these industries, and doesn't delay in this investigative project put pension funds at risk?

Mr. FORD. Senator Chiles, it is my understanding that those are three areas that the inspector general was intending to go into and was making that determination. I still would say it would be the prerogative of the inspector general to make whatever adjustment within the office that he feels according to the priorities of the needs of that office and priorities of the needs and pressures as identified by him perhaps to adjust the FTE positions he has available.

Senator CHILES. Mr. Secretary, I think a very, very key thing here is why did the Department of Labor turn down, at the inspector general's request, that the Office of Labor Racketeering be exempt from reductions on the basis that it is a law enforcement function?

Mr. FORD. Senator, I will submit that, if I may, for the record.

Senator CHILES. Let me say for a fact you don't know why that was done and gives me great concern as to what kind of support that you have for this function.

Mr. Chairman, I have a couple questions on another item. I will be willing to pass.

STATE RETIREMENT RESCISSION

Senator WEICKER. Thank you very much. I have a question here submitted by Senator McClure. The Department of Labor advocated a policy which initiated personnel retirement systems within the State employment security agencies. Since the State of Idaho and four others—Utah, Oklahoma, North Dakota, and Nebraska—do not have a systematic retirement plan. In any event, to get to the meat of what we are talking about, five States in question attempted to work with the Department, but no amortization schedule was forthcoming because of the stonewalling on the Department's part.

An amendment was offered by Senator McClure and was agreed to on last year's continuing resolution of $3.7 million. I remember this very well in floor action. This money was intended to begin a funding schedule to amortize the funded liability over a 30-year period. Senator McClure personally contacted the Acting Secretary when the $3.7 million was to be allocated. The office was told the Department was collecting the necessary data to allocate the money to the five States.

Now, however, the Department's stonewalling further has impounded the funds. Would you like to respond to Senator McClure's question very briefly and then detail it for the record? I think it, obviously, is requiring an answer.

Mr. FORD. Yes, sir; the $3,767,000 was part of the rescission package because a base was established over the last 2 years of 14-percent increase in the allocations to the States, 7 percent per year, which the Department feels is sufficient for the several States to address their particular problems.

Another point is that to start down the road of the $3,767,000 buys a commitment over $112 million within those five States.

Senator WEICKER. How much is it?

Mr. FORD. Approximately $112 million in those five States that would be an implied commitment to continue that until those were paid off. Our basic point is that, with the addition of the 14 percent, far above the inflation rate permits those States already have funds to amortize their pension commitments.

Senator WEICKER. Why has the Department not made contact with the five States except one telegram dated December 20, 1984, and refused any substantive response to questions or information provided by the States?

Mr. FORD. Obviously, until the President's budget was submitted, we could not make a predetermination of information available at that time.

Senator WEICKER. Well, there are other questions which Senator McClure has which are, as I say, requiring a response. I must confess that I, myself, am a little taken aback by the overall figure that you are quoting here, what is over a 30-year period, $100 million——

Mr. FORD [interposing]. Yes.

Senator WEICKER. I am not sure that was explained to the Members on the floor. In any event, I want these questions responded to for Senator McClure.

SAVINGS IN SMALL REGION INITIATIVE

You are proposing to abolish the regional offices in Boston, Kansas City, and Seattle. Can you tell me specifically how much money this will save?

Mr. FORD. The small region initiative, as we refer to it, would save $10 million. The first year it would cost us between $6 million and $7 million for a net savings of $3 to $4 million, and then the out-year savings would be $11 million.

Senator WEICKER. In what, all three of these cities?

Mr. FORD. Combined.

Senator WEICKER. How many positions do you propose to abolish?

Mr. FORD. 196.

Senator WEICKER. Have you, in fact, already taken steps to transfer people or functions to implement this management initiative?

Mr. FORD. No, sir; we have not.

Senator WEICKER. Can you provide any feasibility studies that you have conducted on the merits of the regional office consolidation?

Mr. FORD. We don't have specific studies on it. However, we are confident the larger regions close to these three can handle the overhead activities. It is just the overhead activities, I might say, that are being transferred. There will be presence in those three regions to serve the constituents of the Department's programs. We are really talking about supervisory activity.

Senator WEICKER. Let's get into that. Right now, the New York regional office services New York, New Jersey, and Puerto Rico. I would like to know what the impact is going to be of adding six more States—Connecticut, Massachusetts, Maine, Vermont, New Hampshire, Rhode Island—to the workload of the office without increasing the staff to handle the job?

What you are basically saying is an additional 16 million workers, or a 60-percent increase, in the potential population without increasing the staff.

Mr. FORD. Before I pass this on to Mr. Komarek to speak about those specifics again, I would like to emphasize that the program areas serving the constituents within those States, field offices will be retained in your major agency activities. The issue is transfer to the regional offices of overhead positions to serve the Federal employees who are in those areas. I would like Tom to speak to that.

Mr. KOMAREK. Two points, Mr. Chairman. As the Under Secretary mentioned, we are cutting 196 jobs because of the efficiency we will achieve. Between the three regions, we are planning to transfer roughly 140 to 150 positions.

In the case of New York and Boston, that would be approximately 60 positions that would be transferred. Now, a second point, which I think is critical, is the Department of Labor regions differ from a lot of other Federal Government regions around the country. For example, even after we make this consolidation of Boston and New York, Philadelphia, because of the large number of people in the program will remain our largest region. In fact, Philadelphia will be our largest region. Atlanta will be the second largest region; Chicago the third largest region and combine the New York and Boston region will only be the fourth largest region, so we think we can handle the management problem of combining these regions because we are already doing it in other places.

Mr. FORD. Mr. Chairman, for clarification—Senator Chiles?

Senator WEICKER. Lawton.

CLARIFICATION OF OIG RESCISSION

Mr. FORD. Senator Chiles, when I said I didn't know why the law enforcement exception wasn't given within the Department to the Office of Inspector General, what I was referring to, I wasn't aware of a Governmentwide authorization for giving the exception because an exception, while requested at that particular point in time, was not allowed. So it is not a lack of attentiveness, as I am saying, rather than a lack of knowledge of a Governmentwide decision on that basis through all the inspector generals.

Senator CHILES. In that instance then will the Secretary of Labor withdraw that request for recission of $114,000?

Mr. FORD. Only if the exception is one that is authorized as a Governmentwide initiative, accepting that as something that would fall within the exception.

Senator CHILES. Was not that Government policy that they were exempt from cuts, the law enforcement agencies? Were you not requested to do that by the inspector general on the basis that this is law enforcement-related activity?

Mr. FORD. We obviously have to get the concurrence of the Office of Management and Budget when an exception is made such as that that addresses a Governmentwide initiative, but I would like to respond for the record for you on that history that did not permit that exemption.

Senator CHILES. I am not as interested in history as I am in dollars, whether we are going to lose these positions and whether we are going to lose the capacity to investigate labor racketeering in these pensions.

Mr. FORD. There was no loss of positions. There was an increase of positions; a reduction actually in contract funds.

Senator CHILES. If you don't have the contract funds, you now see there is no reason to fill the positions. In fact, you have 18 vacancies now and that is why they tell us they are not filled because you don't have the funds to have them do anything.

Mr. FORD. In 1986, we hope to have it fully funded so they can have all the positions filled, sir.

Senator WEICKER. I think the problem here, Lawton, is the problem we are going to run into during the course of all these hearings, this across-the-board type of cut doesn't relate at all to priorities or whatever the needs are. It could very well be in labor racketeering enforcement there should be an increase, where somewhere else there may be a decrease. That is not the way it is approached. It is approached across the board. That is the main policy.

Let me put it this way. It would sure make the job of this subcommittee easier. We wouldn't have to have hearings; we wouldn't have to find out what is needed and not needed. We would go across the board, up and down.

QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

I have further questions to submit for the record on a variety of matters, and I also have questions to be submitted by Senator Domenici for the record, and unless you have further matters you want to discuss with the committee, Mr. Secretary, I wish you a good day, and we will go over this testimony and we will be formulating the appropriations.

While we have a changing of the guard here, we will next hear from Patrick O'Keefe, Deputy Assistant Secretary for Employment and Training.

The subcommittee will recess for about 3 minutes.

[A brief recess was taken.]

[The following questions were not asked at the hearing but were submitted to be answered for the record:]

QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

SUMMARY OF MAJOR CUTS

Question: Last year, the Labor Department had pretty much of a "stand-still" budget request. This year, you propose more than a dozen rescissions, as well as total elimination of several programs, involving hundreds of millions of dollars. Did you propose any alternatives to total elimination of the Job Corps?

Answer: While no alternatives were ultimately proposed, several approaches to simply cutting program costs were examined. With only minor exceptions (e.g., by making the costs of the conservation centers competitive with the contract centers), we have implemented all available cost-cutting and cost-containing initiatives. It was concluded, therefore, that without changing the basic character of the program no further cost reductions are possible and the most reasonable option is to discontinue the program and have former Job Corps eligibles served by the Title II-A program.

Question: Last year, the Labor Department had pretty much of a "stand-still" budget request. This year, you propose more than a dozen rescissions, as well as total elimination of several programs, involving hundreds of millions of dollars. Whose idea was it to downgrade Labor Department regional offices in Boston, Kansas City, and Seattle?

Answer: In mid-1983 the President indicated that the changes he had made in the organization, programs and regulatory activities of the Federal government should have significantly reduced the need for personnel and organizational elements in departmental and agency field structures. Accordingly, on August 30, 1983, he directed the heads of Executive Departments and Agencies to assess their field structures and to implement changes that would eliminate duplication, redundancy, overhead and layering, and that would increase the efficiency of existing personnel and other resources.

In 1982-3, the President's Private Sector Survey on Cost Control in the Federal Government (the Grace Commission) conducted a study, and in its report dated August 31, 1983, recommended that "the Secretary of Labor should direct each Agency (to) prepare plans to discontinue its Boston, Kansas City and Seattle Regional Offices by combination with the New York, Denver and San Francisco Regions, respectively."

During the ensuing months of 1983 and 1984 the Administration concluded that the thrust of the Grace Commission's recommendations was fully supportive of the President's initiative and provided an analytical framework that could be applied government-wide. Thus, during the development of the 1986 budget the Deputy Director of the Office of Management and Budget issued the following policy statement:

> "All agencies which currently conform to the 10 standard regional policy, as established by OMB Circular A-105,

> will be required to reduce the number of regions to the minimum number consistent with cost-effective program delivery. Regional office cities should be selected from among the existing 10 standard regional cities in order to maximize colocation of regional offices and efficiencies associated with consolidated administrative support."

The Department of Labor has decided to eliminate its three smallest regional offices: Boston, Kansas City and Seattle. Because of their small size, these are the regions that have the highest overhead ratios. The proposed consolidation will eliminate primarily "overhead" jobs, will broaden the span of control and will reduce costs significantly. Consolidation of these small regional offices with the adjacent ones (New York, Denver and San Francisco respectively) is consistent with the policy guidance from the Office of Management and Budget, is administratively least disruptive, and maximizes the cost savings.

Over three-fourths of the Department's staff will be retained in the Boston, Kansas City and Seattle regions. These employees make day-to-day operational decisions as a part of their regular duties. No change is contemplated in that method of operation. The jobs being eliminated or transferred are almost all "overhead" in nature. They include senior managerial positions that have responsibility for addressing those relatively rare policy exceptions that come forward from the operational staff. Thus, the vast majority of the Department's clientele will be unaware of any change. Elimination of these "overhead" positions in the three small regions will generate a savings of about $11,000,000 per year after the transition is completed in FY 1986.

JOB CORPS UNIT COST

Question: The chart you submitted for last year's hearing record shows an estimated cost of $5,252 for each Job Corps participant adjusted to 1984 dollars. Is this really such an exorbitant cost for a program that provides residential living needs, medical care and basic education as well as job training?

Answer: The total cost is extremely high when compared to the JTPA Title IIA program, which also offers employment and training programs. Given the broad and intensive support available to Job Corps enrollees, including the residential aspect of that program, the costs of the Job Corps are inevitably higher than other efforts. In recognition of this we sought to restrain the growth of its costs through several management initiatives, including reduction and simplification of administrative paperwork and specific plans and strategies for reducing the high costs at the Civilian Conservation Centers. We now feel that no further cost reduction can be effected without changing the basic character of the program. It should be stressed that in any given area where a need exists to serve Job Corps-type enrollees, Governors/SDAs have great flexibility to tailor programs to meet the need, including the authority to undertake programs similar to the Job Corps.

Question: Mr. Ford, since you have been performing the duties of both Secretary of Labor and Under Secretary for several months, have you found it difficult to manage both jobs?

Answer: No, I haven't. Although a difficult challenge, it is one that I have accepted and worked hard at.

Question: How do you respond to allegations that the absence of Secretary Donovan has created a leadership void that is damaging to Labor Department programs?

Answer: Anyone that suggests that DOL programs are being impaired by some false perception of a leadership gap are obviously not aware of activities within the Department, our programs and responsibilities, and the very real progress we are continuing to achieve. Secretary Donovan assembled a team of skilled, loyal and dedicated managers to help run the Department and to carry out our important public responsibilities. They have cooperated fully in providing continued strong leadership during his absence. Our common goal is to see that all American workers have good, safe jobs in a healthly, expanding economy and the President's program has brought us closer to that goal.

Question: What are the top priorities for the Labor Department in 1985?

Answer: The top priorities for the Labor Department in 1985 are shaped by the same principles that enabled us to focus our efforts during the past 4 years. The broad objectives of these principles remain:

-- to reduce the size of the Federal bureaucracy and Federal spending;

-- to most effectively use training programs to improve job prospects for the disadvantaged while saving taxpayer's money;

-- to reform our wide-reaching regulatory programs in order to emphasize cooperation rather than confrontation; and

-- to improve financial controls in all Departmental programs in order to eliminate waste, fraud and abuse of public funds.

Some specific examples of actions we plan to vigorously pursue this year include:

-- working with the Congress for approval of the Department's FY 1986 budget request as submitted by the President;

-- pressing for legislative enactment of a Youth Employment Opportunity Wage (YEOW);

-- seriously considering the recommendations of the National Pension Forum;

- -- introducing a quality control system for the Unemployment Insurance system; and
- -- considering a variety of recommendations applicable to the Labor Department made by the Grace Commission.

Question: You are proposing to abolish regional offices in Boston, Kansas City and Seattle.

Have you projected the cost in terms of "Permanent Change of Station" moves, lease cancellations, severance pay, unemployment compensation, lump-sum annual leave, and withdrawn retirement contributions?

Answer: We have estimated the cost of most of these factors.

- Permanent Change of Station.	$3,280,000
- Severance Pay.	2,952,000
- Terminal leave	328,000
- Unemployment insurance.	44,200
- Physical move of equipment.	50,000

We cannot estimate the number of employees who would withdraw their retirement contributions early since that depends on individual decisions as well as on the type of employment found by those who are not placed in other positions in the Department of Labor. However, the number in that kind of situation should be very small as we expect to utilize our "Hire DOL First" program to find other jobs in the Department for the majority of those affected.

Regarding lease cancellation costs, we are dealing with either Federally-owned buildings, or buildings under the lease jurisdiction of GSA. There are no costs for the former, and since we will be giving GSA ample notice the costs for the latter should be minimal if any.

SPECIFIC EXAMPLE OF REGIONAL OFFICE ELIMINATION

Question: All Federal contracts over $1 million, as you know, must receive a pre-award clearance to show that a company's affirmative action plans comply with Federal regulations. I understand that last year, the Boston Regional office completed more than 2,200 such reviews, while the New York region did about 2,400 reviews. If these regions are combined, but New York is given no more staff, how will they be able to handle a 90 percent increase in workload?

Answer: When pre-award compliance reviews are required, they are conducted by the Office of Federal Contract Compliance Programs (OFCCP) Area and Field Offices, while pre-award clearances are handled by the Regional Office. Of the 2,200 clearances completed by the Boston Regional Office in FY 1984, 43 required on-site compliance

reviews. Area and Field Office staff would not be reduced as a result of the Small Region Initiative, therefore, the required pre-award reviews would not be affected.

We believe the New York Regional Office will be able to absorb the additional workload related to pre-award clearances, most of which do not require an on-site compliance review, and are completed after data and record checks. We will be monitoring all Regional Office workload activity, and will take action as necessary to ensure that adequate staff are allocated to all key workload functions.

REGIONAL CONSOLIDATION

Question: Many details appear to be lacking at this point about the specific impact of your plan to consolidate regional offices.

Can you assure me that you will not proceed to implement this consolidation until Congress has had time to consider it, in conjunction with action on the Fiscal 1986 budget?

Answer: As noted in the Department's testimony before the House Government Operations Committee on February 21, 1985: "Congress has not acted on our 1986 appropriation and, while we will begin some transitional activity prior to the end of the fiscal year, the bulk of the changes would become effective October 1."

The kinds of transitional activity referred to include development of specific implementation plans, the initiation of discussions with representatives of employee labor organizations, and notification of employees. Our plans are to effect most personnel actions associated with this change during the last week in September, 1985. We can certainly assure you that these transitional activities are not irreversible, and that implementation will not occur until the end of this fiscal year and the beginning of next fiscal year. This time frame allows the Congress time to consider these regional consolidations in conjunction with the FY 1986 appropriation request.

POLITICAL NEUTRALITY OF BUREAU OF LABOR STATISTICS

Question: You are proposing to centralize personnel functions of several Labor Department agencies, including the Bureau of Labor Statistics. Do you intend to centralize such functions as recruitment and promotions, which could undermine the independence of the Bureau?

Answer: The Department intends to centralize the provision of personnel services and processing. This would include the servicing and processing of recruitment and promotion actions decided by the Bureau of Labor Statistics. The managerial decisions on who would be hired or promoted would be fully retained by the Bureau.

Since the decision making authority concerning all personnel related actions would continue to be the sole purview of the Bureau, its' independence would in no way be undermined.

PERSONNEL SERVICES CONSOLIDATION

Question: Is it your intent to simply consolidate technical personnel functions without taking away each agency's managerial control over hiring, firing and promotion policy?

Answer: Yes, the personnel services consolidation would not affect any agency's managerial decision or control over hiring, firing, promoting, and reassigning its employees. Those decisions would continue to be made by agency program managers and supervisors under the direction of the Agency Head.

CUTTING ENFORCEMENT ACTIVITIES

Question: Once again, your budget proposes staff cuts in the areas of Federal enforcement of worker safety (-20 positions), mine safety (-84 positions) and Federal contract compliance (-42 positions). How can you keep cutting these positions, as you did last year, while claiming to have no adverse impact on enforcement activities?

Answer: The reduction of the 20 positions in the Occupational Safety and Health Administration (OSHA) is associated with the Small Region Initiative (SRI). It does not affect the number of compliance officers in the agency. OSHA's inspectors work out of area offices and report directly to the area office director who in turn reports to the regional office. OSHA's position reduction would affect this latter reporting arrangement by shifting regional boundaries. It would not engender an adverse impact on enforcement activities.

The reductions in the Mine Safety and Health Administration (MSHA) are possible mainly due to a decline in the number of operating mines and to the implementation of management efficiencies. The number of operating mines that MSHA has responsibility for inspecting has decreased by about 2,100 since 1982. Since most of MSHA's resources are associated with inspection activities, it has been possible to reduce staffing and associated funding levels while maintaining the required level of inspections. MSHA will be able to continue to perform mandated inspections, conduct special emphasis programs, and provide education and training and technical assistance activities.

In the Office of Federal Contract Compliance (OFCCP) there is a reduction of 25 related to the SRI which will have no adverse impact on enforcement activities. In addition, OFCCP has had underway during the past two years, reviews of its National Office organization and staffing and the ratio of OFCCP Area and Field Office supervisors to nonsupervisory staff. In some Area and Field Offices, excess supervisory positions identified are being converted to nonsupervisory compliance officer positions as they become vacant through attrition. This has enabled OFCCP to increase the number of positions available to conduct compliance reviews and complaint investigations.

With regard to the OFCCP National Office, a reorganization was completed, effective October 1984. The reorganization streamlined the National Office structure, eliminated unnecessary duplication of functions, and reduced the number of staff required to support National Office activities.

CUTTING ENFORCEMENT ACTIVITIES

Question Can you take any further cuts in "administrative overhead" without damaging direct enforcement efforts?

Answer: The agency is always examining its infrastructure to strike an appropriate balance and assure that its resources are being distributed and utilized most efficiently. We believe that our current proposal accomplishes this objective.

LATE REPORTS AND JUSTIFICATION

Question: Last June the Senate Appropriations Committee asked for several reports, which were due by December 1, 1984 -- in order that they could be reviewed well in advance of our preparation for these hearings. These reports were finally submitted just days before this hearing, but not in time for thorough review. What is the explanation for this delay?

Answer: The delay in submitting the Unemployment Insurance and Indian reports was due to the extensive effort involved in gathering and carefully analyzing the information requested by the Senate Committee and the time required for clearance of the reports. The study of Job Corps facilities and equipment was also an extensive undertaking, requiring both an assessment of the current degree of facility and equipment deterioration in the 107 Job Corps centers (which utilize 2,700 structures, valued at nearly $1 billion, and $200 million worth of equipment), and the formulation of future capital needs of the program. Although the initial report was ready prior to December 1, 1984, the large volume of material included in the report has taken more than the normal review time at each level of review.

LATE REPORTS AND JUSTIFICATIONS

Question: Which agencies were late in submitting their material to you for review, or is OMB to blame?

Answer: As indicated previously, the delay was caused largely by the depth of the undertakings involved and the subsequent volume of material prepared. No one agency was associated with the delay; rather, a greater than normal review time was required at each level involved.

SUB-MINIMUM WAGE FOR YOUTH

Question: To the extent that businesses would have more youth at cheaper wages, what is there to prevent loss of expanded job opportunities for adults -- resulting in minimal overall job creation?

Answer: The proposal was explicity designed to create jobs for teens without resulting in the substitution of teens for currently employed adults or adversely impacting expanded job opportunities for adults. The most significant design feature of the YEOW proposal for safeguarding both current and future adult employment opportunities is that the program is limited to temporary summertime employment.

The restriction to temporary summertime jobs is likely to minimize the substitution of teens for currently employed adults in year round, full-time jobs. Employers would not gain by laying off permanent experienced workers each year to hire temporary teens during the summer. It would not pay an employer to change his workforce each summer to save 85 cents an hour.

Thus, the primary employment impact of YEOW is likely to be on low level entry jobs in industries that normally tend to expand in the summer. These jobs would not be the sort of jobs that adults now hold. In fact, statistics show that nearly nine-tenths of summer jobs are filled by youth, not adults.

In addition, to make absolutely certain that the YEOW impact on job creation for adults would be minimized, we lowered the upper age limit for YEOW to 19.

Finally, as a safeguard, the law explicitly prohibits displacement. Employers who discharge, transfer or demote other workers--including adults--would face stringent penalties under the Fair Labor Standards Act, including a $10,000 fine, 6 months in prison, payment of back wages and liquidated damages, and restoration of employment of affected employees.

With these design features, we estimate that the YEOW proposal will create 400,000 new jobs for teens, with little or no impact on currently employed adults or on employment creation for adults.

Question: What other ways can you suggest to expand jobs for youth without jeopardizing employment opportunities for adults?

Answer: The surest way of expanding real jobs for youth without jeopardizing employment opportunities for adults is to take the steps needed to sustain the economy recovery. For example, effective Congressional action on the President's budget proposals is needed, in order to reduce budget deficits and reduce pressures on interest rates, without raising taxes. We also need to continue to implement policies aimed at deregulating the U.S. economy and therefore removing barriers to economic growth. A continuation of the economic recovery will provide new permanent jobs for both youth and adults.

Even continued economic growth, however, will not totally eliminate long-term, structural unemployment, particularly in depressed urban and rural areas. The Administration's legislative proposal for enterprise zones (Enterprise Zone Employment and Development Act) is focused on stimulating economic development in such areas, by providing relief from taxes, regulations, and other government requirements. Congressional action on this proposal is needed to reduce structural unemployment and thereby complement a continuation of the economic recovery.

Thus, we believe that YEOW should be complemented by other policies aimed at creating real jobs in the private sector, for both youth and adults. We do not believe that jobs for youth should be expanded through the creation of temporary, make-work jobs in the public sector. Our experience with such jobs programs shows that these jobs do not benefit youth in the long-term, and often lead to waste and abuse in terms of the actual work that is performed.

Question: What studies do you have as evidence that YEOW will create more jobs for youth, instead of just allowing firms to pay less to the young people they would normally employ anyway?

Answer: Many studies have demonstrated that increases in the minimum wage reduce youth employment. Reductions in the minimum wage can therefore be expected to increase youth employment. The most recent summary of these studies can be found in an article published by three staff members of the Minimum Wage Study Commission in the June 1982 Journal of Economic Literature. Their conclusion was that an increase in the minimum wage results in a decrease in teenage employment. The article is entitled "The Effect of the Minimum Wage on Employment and Unemployment."

NEGATIVE SUPPLEMENTALS

Question: Your budget contains several proposals which are, for all intents and purposes, rescissions. OMB apparently does not classify them as rescissions since they involve trust funds instead of budget authority. Since rescission proposals are automatically rejected after 45 days of Congressional inaction, the question arises: Will you treat these "Negative Supplementals" just like rescissions and release the money promptly if Congress rejects them?

Answer: OMB has made no decision regarding the timing of release of these "Negative Supplementals". These program deferrals were not entered into lightly and the Administration wants Congress to consider these recommendations.

Question: Please specify in which instances, if any, you would not spend the money identified by these negative supplemental requests, even if Congress does not approve them?

Answer: A decision regarding the release of funds will be made in ample time for any funds released to be used as intended by the statutes governing the programs.

BACKLOG OF BLACK LUNG CASES

Question: An October 1984 General Accounting Office report indicated that a very substantial backlog of Black Lung claims on appeal existed--20,000 and 5,000 cases at the Office of Administrative Law Judges and Benefits Review Board, respectively. It is also indicated that current staffing could not reduce the backlog in the foreseeable future --with claimants having to wait more than three years for determinations into the mid-1990s. What initiatives do you have in place to reduce the backlog and waiting periods noted in last year's GAO report on Adjudication of Black Lung claims?

Answer: The Department has taken a number of actions in an effort to keep adjudication backlogs in the Black Lung program to a minimum. To meet the greater workload generated by the 1977 amendments, the Office of Administrative Law Judges increased both resources and productivity. The number of judges was doubled in FY 1981 and the dispositions of Black Lung cases per judge has increased from 106 in FY 1980 to 146 in FY 1983. The greater productivity has been due to more support staff (mainly law clerks on two-year appointments), refinements in the hearing process, consolidation of trials into geographic areas, and greater decentralization of personnel. In addition, programs were implemented in FY 1984 to "borrow" judges from other agencies to decide cases and to contract with attorneys on a "piecework" basis to aid in drafting decisions. These programs helped the FY 1984 disposition rate increase by 7 percent over FY 1983 levels.

With regard to the Benefits Review Board, significant gains in dispositions were made in FY 1984 due to altering the composition of the Board to install a more production oriented membership and provide maximum staff support. With the passage of the 1984 amendments to the Longshore Act, Board membership was authorized to expand from 3 to 9 members.

It is planned that all Board members and support staff will be hired by the end of the year.

FY 1986 EFFORTS TO REDUCE ADJUDICATION BLACK LUNG BACKLOGS

Question: Are any initiatives included in the fiscal 1986 budget?

Answer: As additional Benefits Review Board staff hired in FY 1985 will be on board for the full year in FY 1986 and will have gained experience with Board operations, case dispositions are projected to increase. In addition, the Department will continue its efforts to increase productivity and efficiency of existing staff in both the Benefits Review Board and the Office of Administrative Law Judges. Also, within the limits of available resources, the Department will seek to continue such innovations as the "borrowed" judge and contract attorney programs.

HIRING OF STAFF FOR EXPANDED BENEFITS REVIEW BOARD

Question: How many of the 53 extra staff included in the fiscal 1985 appropriation for the Benefits Review Board have been hired?

Answer: Of the 53 additional staff authorized, 15 have been hired.

APPRENTICESHIP TRAINING

Question: Since 1981, the staff of the Bureau of Apprenticeship and Training (BAT) has been cut by nearly 50 percent: from 459 positions in 1981 to an estimated 227 positions in 1985. How has this reduction in staff affected the mission of the agency?

Answer: The reduction in BAT staff has not changed the agency's mission, but has resulted in a more efficient and economical operation.

Question: During the same period, since 1981, there has also been a significant drop in the number of registered apprentices in training: from 425,000 in 1981 to an estimated 350,000 in 1985. Might there be a direct link between the Bureau's diminishing personnel and the decline in registered apprentices?

Answer: The decrease in the number of registered apprentices is not as directly related to the Bureau of Apprenticeship Training's (BAT) staff reductions as it is to the purging of statistical data files and the continuing effects of past economic conditions. Where training programs average over three years in length, there is some delay before improved economic conditions are reflected in participant increases. With the success of the Administration's economic recovery program, the number of registered apprentices is expected to begin a steady and continued increase in Fiscal Year 1986.

Question: During a period when industry has called attention to a shortage of skilled craftpersons for vital technical operations, should not the Bureau be increasing its efforts instead of cutting back? What new efforts are being undertaken by the Department to facilitate and encourage apprentice training?

Answer: It is believed that through new efforts such as improved management, better staff training, introduction of automated data processing, more effective promotional techniques and increased State agency involvement, the resulting effect is, in fact, an overall increase of efforts that will increase the number of persons being trained to be craftworkers in skill shortage occupations.

TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

Question: The Trade Adjustment Assistance for workers program expires at the end of fiscal year 1985. Why has the administration proposed to let this program die?

Answer: The Trade Adjustment Assistance (TAA) provisions were incorporated into the Trade Act of 1974 because of the expected impact the new trade policies would have on some firms and their workers. At that time, there were few program resources that focused specifically on the training, job search, relocation and other reemployment services needs of workers adversely affected by the trade policies. The TAA benefits and program services satisfied the immediate needs of workers whose job separations were linked to increased imports.

Subsequently, other legislation has been enacted which provides benefits and services to unemployed and dislocated workers, thereby reducing the need for programs such as the TAA, which direct resources to special categories of worker groups. The Dislocated Workers

Assistance program authorized by the Job Training Partnership Act provides training assistance, job search, relocation and other reemployment services, similar to the TAA program, to workers who have been or are expected to be separated from employment in their former industries or occupations. The regular unemployment insurance program provides adequate benefits for dislocated workers. We believe the effective combination and use of JTPA services and UI benefits at the community level is a more effective means of directing resources at the time they are needed to this special category of workers than the TAA with the delays caused by its cumbersome, time-consuming certification processes.

TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

Question: Does this break an informal "social contract" reached with organized labor in which it agreed to freer international trade policies in exchange for a program that would help workers to adjust to increased foreign competition?

Answer: Quite the opposite. The range of services and the level of resources available to train and place dislocated workers, including those adversely affected by trade, far exceeds the levels in 1982 when the Job Training Partnership Act (JTPA) was signed into law. We view JTPA as a more timely and complete response to the problems of those whose employment paths need redirection and whose skills and competencies need sharpening. Under the JTPA the delivery of training assistance and reemployment services to trade impacted workers can be instituted earlier in a person's unemployment experience. The time-consuming certification process now used in the Trade Adjustment Assistance (TAA) program would be eliminated. This has the distinct advantage of providing needed services to dislocated workers promptly, thereby helping to reduce durations of unemployment. Moreover, organized labor representatives have been appointed to State Job Training Coordinating Councils which offer recommendations and advice to Governors on all employment and training planning and program activities carried-out under the JTPA.

"CONSULTANT" RESCISSIONS

Question: You are requesting rescissions of $24 million for the five categories stipulated in the 1984 Deficit Reduction Act: consultant, travel, publications, public relations, and motor vehicles. Yet more than half these cuts -- $15 million --don't appear to relate to these areas at all. How can you classify a $3.8 million reduction of Inspector General audits as a cut in consultants?

Answer: The proposed $3.047 million rescission of audit contract resources under Section 2901 have been classified as "consultant services" by OMB Bulletin 84-17 and supplements thereto, which defined "consultant services" as all activities reported to the Federal Procurement Data System (FPDS) under code R 704. Audit contract expenditures have been reported using this code in reports to the FPDS. The Department was afforded little room for discretion or flexibility in this classification process. The application of the bulletin 84-17 percentage reduction target against a base figure compiled using this classification produced the proposed reduction.

"CONSULTANT" RESCISSIONS

Question: How do you justify cutting $11.4 million from national job training projects, serving such groups as disadvantaged youth and minorities, as a "consultant" reduction?

Answer: The definition of "consultant services" for purposes of responding to the Congressional limitations imposed was the expanded definition for "Advisory and Assistance Services" recommended by the Cabinet Council on Management and Administration and approved by the President.

Many of the projects which will be eliminated by the rescission do not directly serve the disadvantaged with the funds proposed for rescission. These contractors and the services they provided using Federal funds were particularly valuable making the transition to the new decentralized system under JTPA; however, with the States assuming the primary responsibility for program operations, these services are now more appropriately financed at the State level.

Most of the disadvantaged individuals directly served by the JTPA Pilots and Demonstrations are in programs serving the handicapped. These projects serving the handicapped are not affected by the proposed rescissions.

REVIEW OF RESOURCE ALLOCATION BETWEEN LMSE AND PWBP

Question: Last Spring's Inspector General's report stated that "there was a disproportionate allocation of resources between LMSE and PWBP which required review." Have you conducted such a review, and what conclusions have been reached? What factors do you consider in determining the proper allocation of resources between labor-management standards' activities and pension and welfare benefit programs?

Answer: The Inspector General conducted its review of enforcement operations in the Labor-Management Services Administration (LMSA) during 1983. At the time of this review, the LMSA included the Labor-Management Standards Enforcement (LMSE) and the Pension Welfare Benefit Programs (PWBP). Secretary Donovan, in Secretary's Order 1-84 dated January 20, 1984, created the Office of Pension Welfare Benefit Programs as a separate Agency responsible for enforcing ERISA. Subsequently, in Secretary's Order 3-84 dated May 3, 1984, Secretary Donovan created the Office of Labor-Management Standards (OLMS) as a separate Agency responsible for enforcing the LMRDA and certain provisions of the CSRA. During the reorganizations that were conducted to effectuate the above-mentioned Secretary's Orders, personnel previously assigned to the LMSE and PWBP program components were assigned to the newly created organizations, the OLMS and the OPWBP. Accordingly, the OLMS and the OPWBP each now has separate responsiblity to deal with issues relating to the determination of allocation of its resources to meet organizational goals and objectives.

TRAVEL CUTS

Question: It appears the Labor Department is taking a bigger percentage reduction in travel than the Departments of HHS and Education. With all the mandatory workload programs you administer, such as OSHA, mine safety and worker's compensation, how can you justify taking a bigger share of the cuts and still carry out laws which require considerable Federal staff travel?

Answer: In meeting the objectives of the Deficit Reduction Act, OSHA took a hard look at its own program to assess what savings could actually be achieved. The proposed travel reduction will not inhibit the agency from providing the same comprehensive coverage that has been provided in the past.

Since mining activity has been declining and MSHA has proposed staffing and funding reductions, less travel will be required. Sufficient travel funds have been requested in 1986 to accomplish the inspection activities required by the Mine Act.

These reductions will not adversely impact the Employment Standards Administration's overall enforcement efforts in FY 1985 or FY 1986. To implement the reductions, tight controls will be placed on administrative travel not related to enforcement mandates. The only impact on enforcement that could be foreseen, at this time, would be a potential for delays of particular investigations in remote areas. This would be for a short period of time until additional actions can be completed at the same time, thus saving the cost of repeat trips.

QUALITY CONTROL PROGRAM

Question: Congress has enacted legislation requiring fiscal sanctions against States not meeting specified error-rate levels in Welfare and Food Stamps programs. Do you favor similar legislation to reduce erroneous payments in the Unemployment Insurance program?

Answer: The Department does not favor Federal legislation to reduce erroneous Unemployment Insurance (UI) payments because it does not believe such legislation is needed to implement an effective Quality Control program. States set benefit standards and impose the taxes to finance them and thus have adequate incentives to implement corrective actions to reduce errors.

The Department's objectives in establishing a UI Quality Control System are to provide a diagnostic tool for State use in identifying and correcting errors in benefit payment and tax collections, to improve program quality and integrity; and to provide an accurate and reliable information source to guide State and Federal policymaking and legislation.

Question: How would you keep such fiscal sanctions from becoming simply a budget-cutting tool, instead of a quality control device?

Answer: The Department has no plans to implement fiscal sanctions as part of UI Quality Control. We believe the States which finance the bulk of UI benefits, will have a very strong incentive to act on the information their quality control programs provide.

Question: What is the status of your Quality Control program for the Unemployment Insurance Service?

Answer: The Unemployment Insurance Service's Quality Control (QC) System is scheduled for implementation by the States in July 1985. The regulations which will govern the program are in administrative clearance (OMB) prior to their publication in the *Federal Register.* Interested parties will have an opportunity to comment on these proposed regulations at that time. Other implementation planning actions underway consistent with this timeframe include the hiring and training of State QC staff, development of QC operational procedures and handbooks, acquisition and installation of QC equipment, and development and approval of QC reporting formats and procedures.

PROPER USE OF PENSION ASSETS

Question: With Pension assets hitting the $1 trillion mark, what is the Labor Department doing to ensure that this large sum of money is being properly managed and invested?

Answer: The Department has consistently believed that the way to assure that pension assets are being properly managed and invested is to remove artificial barriers to sound investments, so that investments which are economically prudent and do not involve conflicts of interest may be made by plan fiduciaries, while at the same time to emphasize strong enforcement so that improper investments are deterred, and if made, are vigorously prosecuted.

With respect to enhancing the ability of plan fiduciaries to make sound economic investments, the Department, beginning with its regulations interpreting the prudence requirement of ERISA and continuing with a string of class exemptions, has striven to reduce regulatory barriers to a wide variety of plan investments, to the maximum extent consistent with participant protection. This is because the Department believes that plan participants' interests are best served by not erecting artifical barriers to sound investment decisions. If the plans are prosperous the participants will prosper.

At the same time, the Department is concerned that there be vigorous enforcement to deter wrong-doing and to assure that any wrong-doing which has occured is prosecuted vigorously. To this end, the Department has recently undertaken a reorganization which has elevated the Office of Pension and Welfare Benefit Programs to the status of a separate agency reporting directly to the Secretary. It is also in the midst of engaging in a reorganization of both the national and field office structure to more efficiently and effectively utilize enforcement resources. It has undertaken regulatory initiatives such as work on a proposed regulation under Section 502(i) with respect to assessment of civil penalties for violations of the prohibited transactions provisions involving health and welfare plans, to afford the Department greater flexibility in dealing with violations in this important area. This is in addition to the Department's successful investigation and litigation involving fiduciary violations of the Central States Teamsters Pension and Health and Welfare Fund which resulted in the recovery of $17.5 million for the Fund and its successful prosecution of *Donovan* v. *Schmouty*, which resulted in a judgement of $36.5 million against Morris Shenker and entities controlled by him.

COST OF JOB CORPS

Question: You have been quoted as saying the $15,000 annual cost of Job Corps training is about what it costs for a year at Harvard. Why not compare Job Corps enrollment to the $20,000 to $30,000 cost for incarceration -- or don't you think this program has been effective in rehabilitating youth with criminal records?

Answer: The purpose of Job Corps is to assist disadvantaged youth, through an intensive program of services, to become more employable and productive citizens. For this reason, we believe that the best comparison of Job Corps costs is with alternative education and training opportunities such as educational institutions or other available Federally subsidized training programs, including JTPA Title IIA.

OFFICE OF THE HISTORIAN

Question: What is the current (and prospective) status of the Office of the Historian within the Department of Labor?

Answer: There is now, and for the foreseeable future there will be a historical function in the Department of Labor. As with many of our programs, there is a need to conduct periodic examinations to see if more efficient ways exist to get the job done. We plan to do this for the historical function in the near future.

LOCATION OF HISTORICAL OFFICE

Question: Where is the Department's Historical office housed, administratively? What is the size of its staff? What are its assigned functions?

Answer: The Department of Labor's Historical Office is administratively attached to the Library. The historian reports directly to the Director of the Library. The Historical Office functions with two employees, one full-time and one part-time. The primary function of the office is to prepare special historical studies of particular DOL programs or of the background of labor-related issues. The office also assists DOL staff, students, college and university faculty members, and other researchers who need to use DOL records for historical and social science research. The historian maintains an oral history program for collecting data through exit interviews with DOL officials. While not an archivist, the office maintains two sets of files on the Department; an annotated index to the Secretary of Labor's records in the National Archives, and a photo collection. When there is a change in the presidential administration, the historian prepares a documentary history of the Department during the administration just ended.

LINK BETWEEN HISTORIAN AND POLICY-MAKING OFFICES

Question: Is there an institutional link between the Office of the Historian and the Administrative and policy making offices of the Department? If so, what is the structure (nature) of the link?

Answer: The Departmental historian works from the broad based foundation that a well-established library has to offer. The library is the heart of the institutional memory of the Department in that it contains a comprehensive collection of materials dealing with the labor movement and legislation supporting the American worker. In addition to these resources, the DOL historian has access to contemporary officials of the Department and, as needed, to the program files supporting DOL programs.

INSTITUTIONAL MEMORY

Question: With respect to any given program under the jurisdiction of the Department (for example, farm labor contractor registration, the regulation of child labor, restriction of industrial homework), who is charged with maintaining "Institutional Memory" about that program?

Answer: The main responsibility for preserving "institutional memory" rests with the program offices. The handling of permanent historical records is performed according to the requirements of the Records Operation Program (per Chapter 400, Department of Labor Manual Series) which provides detailed guidelines for the accurate documentation of major policies and decisions, and provides for the control and storage of vital records at established depositories. In addition, the DOL library strives to obtain at least two copies of every publication issued by or under contract with all DOL offices and compiles legislative histories of enabling legislation relating to Department programs.

APPRENTICESHIP TRAINING

Question: What is the current status of the Federal Committee on Apprenticeship?

Answer: The current charter for the Committee terminates September 27, 1986. There are seven membership vacancies (4 management, 2 labor, and 1 public); nominations are in process of clearances and appointment.

Question: What is the make-up of the Committee?

Answer: The Committee has 25 members, appointed by the Secretary for 2-year terms. Ten of its members represent labor, 10 are from management, and 5 represent the public. In addition, there are three ex-officio members, the current president of the National Association of State and Territorial Apprenticeship Directors, a representative of the U.S. Office of Education, and the Assistant Secretary of Labor for Employment and Training. The Committee is chaired by a public member selected by the Secretary of Labor.

Committee members receive no compensation, but may receive authorized travel expenses, including per diem in lieu of subsistence.

Question: Administratively, how is it related to the Bureau of Apprenticeship and Training (BAT)?

Answer: The Bureau of Apprenticeship and Training provides administrative support for the operation of and assistance to the Federal Committee on Apprenticeship. The Committee functions solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act.

Question: What is the level of funding for the Committee?

Answer: There is no specific funding for the Committee. Funding for travel expenses and per diem of committee members is included in the Program Administration appropriation.

Question: What is the level of staffing?

Answer: There is one Bureau of Apprenticeship and Training technical person and clerical/typing assistance is provided as the occasion demands.

Question: For the record, would you please provide a brief historical sketch of the Committee explaining its origin, evolution and activities?

Answer: The Federal Committee on Apprenticeship is one of the oldest public advisory committees in the Federal Government. It was created by the Secretary of Labor in August 1934 as the Federal Committee on Apprentice Training to carry out Executive Order 6750-C issued by President Franklin Delano Roosevelt. The first committee was composed of representatives of the Office of Education, the Department of Labor, and the National Recovery Administration. It was responsible for preparing basic standards for use in developing apprenticeship training programs, reviewing the functions and activities of all State apprenticeship agencies, and recommending the establishment of any other agencies needed to supervise the training of apprentices.

Three years later, Congress enacted the National Apprenticeship Act of 1937 (50 Stat.664; 29 U.S.C. 50; Public Law 308, 75th Cong.), commonly know as the Fitzgerald Act. Section 2 authorized an enlarged Federal Committee on Apprenticeship, to include members from groups concerned with apprenticeship, as well as Federal agencies. The reorganized committee, composed of 10 members representing employers, labor, educators, and Federal agencies, was directed to:

- Advise the Secretary of Labor on labor standards to safeguard the welfare of apprentices.
- Encourage program sponsors to include such standards in apprenticeship contracts.
- Bring together employers and labor to plan apprenticeship programs.
- Cooperate with State agencies engaged in preparing and promoting apprenticeship standards.

From 1934 to 1969, the Committee worked to carry out its responsibilities. It considered apprenticeship issues in closed meetings held at least twice a year during this period, but became inactive in 1970.

After a lapse of more than 4 years, the Federal Committee on Apprenticeship was reactivated in July 1974. Like its predecessor, the present Committee is an advisory group to the Secretary of Labor. The Committee was expanded to 25 members; appointed by the Secretary. The membership included 10 representatives of employers, 10 representatives of organized labor, and 5 representatives of the public. Also, three ex-officio members were added, the current president of the National Association of State and Territorial Apprenticeship Directors, a representative of the U.S. Office of Education and the Assistant Secretary of Labor for Employment and Training.

The expanded Committee, which holds public meetings, is charged with providing advice to the Secretary of Labor, the Assistant Secretary for Employment and Training, and the Bureau of Apprenticeship and Training in five key areas:

- the establishment of programs and practices for developing and promoting an expanded apprenticeship program in all sectors of the economy;
- the formulation and promotion of labor standards necessary to safeguard the welfare of apprentices;
- the identification of research needs and experimental and demonstration needs in the apprenticeship field;
- the development of programs and policies for establishing and maintaining equal opportunity in apprenticeship and skill training; and
- the appropriate role and relationship of apprenticeship with respect to the broader area of employment training.

Question: Given the relative inactivity of the Committee during recent years, might the Committee simply be abolished as an economy/efficiency measure?

Answer: The Federal Committee on Apprenticeship is the only advisory committee dealing exclusively with apprenticeship matters across industry lines at the national level. No other forum of this type, either in-house, intragovernment or public, is available to the Secretary of Labor.

Question: What vital services are performed by the Committee that could not, as well as, be provided through BAT?

Answer: The Federal Committee on Apprenticeship (FCA) serves as an effective sounding board in testing experimental projects and assessing policy issues. The open FCA meetings have been drawing an increasing number of people from the public. The meetings provide an opportunity for the reaction, interest, and contributions from the public sector on issues of vital significance to the apprenticeship community.

Question: You are proposing to eliminate three "small" regional offices: Seattle, Kansas City and Boston.

Why is Boston considered a "small region"?

Answer: In terms of the Department's regional employment, we have 11,962 positions in ten regional offices. There are 611 of these in the Boston Region. The only regions with fewer employees are Kansas City (531) and Seattle (319).

The number of Departmental staff placed in a region reflects basic programmatic considerations. Denver, our next smallest region in terms of DOL employment, is 60% larger than Boston with 980 employees.

NATIONAL PENSION FORUM

Question: Can you provide detail on how the Department of Labor is responding to the recommendations made in the report issued by the national pension forum?

Answer: The Secretary is pleased with the excellent job the Forum did in reviewing the Departments operations and effectiveness in carrying out its responsibilities under ERISA. The Forum's report contained nine major recommendations. The Department is currently studying each of these.

Some of the recommendations require extensive study. For example, in the case of the proposal for a self-regulatory organization (SRO) for processing exemptions from ERISA's prohibited transactions provisions, the Department has solicited comments through the Federal Register. These comments are currently being reviewed by OPWBP and the Office of the Assistant Secretary for Policy.

With regard to electronic filing of the form 5500s, the Department is conducting a pilot study. The initial results of this study should be available this summer.

Other suggestions of the Forum, such as more extensive outreach to encourage voluntary compliance and expanded resources for developing broader class exemptions from ERISA's prohibited transactions provisions, will require a cost benefit analysis. These analyses are underway. In the coming months the Office of the Secretary will be making decisions regarding further work on these and other suggestions of the Forum.

JOB TRAINING RESCISSIONS

Question: What would be the impact of Congress not approving your proposed rescission of Fiscal 1985 appropriations for dislocated worker assistance and summer youth jobs?

Answer: The summer program, with a total availability of $827,626,000 for the summer of 1984, served 672,000 participants and was left with carryout of $145,117,000. With or without the rescission, we estimate that 768,000 participants would be served in the summers of 1985 and 1986 —almost 100,000 more than in 1984.

The situation is similar for dislocated workers. During the transition period, with a total availability of $200,865,000 the Dislocated Worker Assistance program served 96,100 participants and was left with carryout of $127,053,000. For Program Year 1984 the total availability is $340,053,000; 150,000 participants are expected to be served and carryout of $188,553,000 is anticipated. Because of the large carry-out, the proposed rescission in Program Year 1985 and a reduced funding request for Program Year 1986 would still enable 150,000 participants to be served in both years.

While there would be no apparent effect on service levels, Congress' failure to approve the rescission could have a more indirect impact. One possible consequence is that the illusion of unlimited resources on the part of program operators will result in less disciplined use of resources, leading to higher unit costs but no significant programmatic improvements. Similarly, planning could be erratic, leading to enrollment expansions in out years that exceed levels possible under anticipated appropriations.

Question: Wouldn't this simply increase the availability of unspent funds carrying over into Fiscal 1986, giving Congress the opportunity to reduce budget authority when it considers the regular 1986 Labor-HHS-Education appropriations bill?

Answer: The Department of Labor is already planning reduced budget requests for Program Year 1986 as part of an overall strategy for establishing a smooth spending path over time. The proposed rescissions and reduced appropriations are a means of maintaining a stable service level over several years. This is the fairest approach to program operators, enabling them to carefully plan and manage their programs.

ABOLISHING JOB CORPS

Question: Your budget calls for elimination of the Job Corps, for which Congress has already appropriated $617 million for the Program Year July 1985 through June 1986. What alternative plans do you have for serving the 40,000 disadvantaged youth enrolled in Job Corps?

Answer: Section 203 (b)(1) of the Job Training Partnership Act stipulates that no less than 40% of funds available under Title IIA are to be expended on employment and training services for youth. It is estimated that total participants in JTPA Block Grant programs will be 1,192,000 in Program Year 1986, with an average enrollment of 275,000. We feel that this level of service can accommodate the Job Corps eligible youth.

Question: What studies have been completed comparing the long-term costs and benefits of the Job Corps?

Answer: One Department of Labor-funded study, "Evaluation of the Economic Impact of the Job Corps Program," conducted by Mathematica Policy Research, Inc., compares the long-term costs and benefits of the Job Corps both during and after program participation. This study, completed in September 1982, covered a sample of 1977 Job Corps enrollees.

JOBS FOR OLDER WORKERS

Question: The National Alliance of Business recently reported that many local job training agencies were having trouble attracting older workers to meet the statutory requirement to spend 3 percent of block grant funds for the elderly. What have you done to encourage channeling of Job Training Partnership Act funds to potential sponsors under the Community Service Employment Program for Older Americans?

Answer: The Department encourages close coordination between these two programs. An Older Workers Bulletin describing ways to coordinate that program with the JTPA three percent setaside program was recently issued. In some States, the same agency operates both programs. In addition, the National Commission for Employment Policy has just issued a document entitled "A Practitioner's Guide for Training Older Workers." While this document is not an official policy guide of the Department, it is intended to help practitioners design, implement, and evaluate training programs under JTPA, especially programs authorized under Section 124.

TRADE ADJUSTMENT ASSISTANCE

Question: Congress appropriated $26 million in Fiscal 1985 for retraining of workers adversely affected by foreign import competition. When do you plan to allocate this money to the regions?

Answer: Approximately $24.8 million of the total appropriated is being withheld from obligation pending Congressional action on the rescission request. In the interim, Title III Dislocated Worker national reserve funds are being used to finance immediate needs for funding. Should the Congress not act on the proposed rescission, DOL will obligate to States, through our Regional Offices, Trade funds to meet documented training, job search and relocation assistance needs of certified workers.

Question: Are the regional changes proposed by the Department of Labor the result of a detailed and objective study of the matter? Have such matters as population, number of states, socio-economic character, historical and institutional needs, geography, travel costs and other such pertinent issues been objectively studied? ✓

If so, when was such a study made? ✓

Would you please provide this Committee with copies of that study and a list of the various alternatives it produced?

Answer: As noted in our testimony before the House Government Operations Committee, the Department has been considering regional restructuring for almost two years. We have not conducted a formal study as such, but have considered a variety of factors including most of those cited in the question.

The President's Private Sector Survey on Cost Control in the Federal Government (the Grace Commission) did such a study, and in its report dated August 31, 1983 recommended that "the Secretary of Labor should direct each Agency to prepare plans to discontinue its Boston, Kansas City and Seattle Regional Offices by combination with the New York, Denver, and San Francisco Regions, respectively." A copy of that section of the Grace Commission report is attached.

We estimate a recurring savings of about $11,000,000 per year, a figure that consists of 9,000,000 in personnel costs, $1,000,000 in space, ADP and related support costs, and $1,000,000 in Treasury savings (interest at ten percent). Offsetting costs, after the first year, will be less than $100,000 in additional travel and communications costs.

When consolidation is completed, the new seven regional pattern will reflect more even distributions of staffing and programmatic coverage. For example, the percent of Departmental staff per region now ranges from 2.7 percent in Seattle to 21.1 percent in Philadelphia; in the new configuration the range will be from 9.5 percent to 21.1 percent. The population served by each region now ranges from 3.1 percent to 19.4 percent; in the new configuration the range will be from 8.1 percent to 19.4 percent.

II. ISSUE AND RECOMMENDATION SUMMARIES

B. OFFICE OF ASSISTANT SECRETARY FOR ADMINSTRATION AND MANAGEMENT

LABOR 5: REORGANIZATION OF REGIONAL OFFICES

Issue and Savings

Can the operating costs of the Department of Labor (DOL) be reduced by restructuring its Regional office organization?

An estimated $8.7 million could be saved in the first year. Subsequent cost savings will be $9.6 million in the second year and $10.5 million in the third year for a three-year total of $28.8 million.

Background

In May 1969, President Nixon directed the establishment of standard Federal Regions for selected domestic departments including the DOL. Office of Management and Budget (OMB) Circular A-105 sets forth uniform boundaries and common Regional headquarters cities for ten (originally eight) Regions to facilitate close interagency and intergovernmental coordination. DOL Manual Series (DLMS) Chapter 3-1200 states the policies and requirements of the DOL in implementing the OMB Circular. Agencies of the DOL are not required to have ten Regions unless justified by workload or other considerations. Where a Region exists, however, its boundaries are to conform to standard Regions or a combination of standard Regions. Three combinations are permitted by Agency authority: Boston with New York, Kansas City with Denver and Seattle with San Francisco. Other combinations require prior approval of the Office of the Assistant Secretary for Administration and Management (OASAM) and the OMB.

Preliminary interviews and written suggestions from the DOL Office of the Inspector General (OIG) and the OMB as well as our analysis suggest that there are opportunities to make the field organization of the DOL more efficient and effective in the accomplishment of its mission.

For the purpose of this study, we have defined a line position or unit as an element of the organization which has direct responsibility, authority and accountability for a program of the DOL. Staff positions or units are defined as those which provide support to line operations in terms of advice, service and control.

Methodology

The current organization structure of the DOL was reviewed by examination of organization charts, official written statements of functions, order redelegating authority and assigning responsibility, and a complete print-out of Regional office staffing from the Integrated Personnel Payroll System. The written documentation was supplemented by interviews with line and staff personnel including Agency level in the National office in Washington and the New York and Philadelphia Regional offices.

The limited resources available for this study precluded examination of all the positions occupied by 10,000 employees in the field. It was decided, therefore, to focus the study on positions at General Schedule-12 (GS-12) and above, which would include most supervisory positions and to concentrate on areas that experience shows to be improvable in similar organizations. These are: a) uneconomic offices, b) unnecessary supervisory layers, c) narrow supervisory spans of control and d) excess and redundant use of staff.

Reference was also made to reports from the General Accounting Office (GAO), in particular "Streamlining the Federal Field Structure: Potential Opportunities, Barriers, and Actions That Can Be Taken" FPCD-80-4, August 5, 1980, which supported this approach.

Findings

The field structure of the DOL consists of over ten thousand employees in hundreds of locations. Each office is assigned to a Region in accordance with the boundaries of the Standard Federal Regions.

- Generally, an Agency operating in a Region has a Regional office collocated with similar offices of other Agencies in the headquarters city.
- An Agency's Regional office includes a management structure located in the Region's headquarters city

and, depending on the Agency, a number of Area or District offices which perform the mission programs of the Agency. These offices may be collocated with the Regional office or strategically located elsewhere but within the geographic boundaries of the Region.

- The reporting relationship for the person in charge of the Agency's Regional office is directly to that Agency's National office. There is no single person in charge in a Region for the DOL.

Regional offices vary substantially in size, ranging from 320 employees in Seattle to almost 2,500 in Philadelphia. Boston and Kansas City are also small Regions, each with slightly more than 600 employees. Individual Agency staffing also shows great variations. For example, in the Employment Standards Administration (ESA), the Denver and Seattle Regions each have about 125 employees and there are about 600 in Atlanta. The Employment and Training Administration (ETA) ranges from about 80 employees in the Denver Region to over 260 in Chicago.

For an Agency, the top management structure in each Region is similar regardless of the size of the Region. For example, ESA has a Regional Administrator (RA) and three Assistant Regional Administrators (ARA) in each Region except Atlanta, which has four ARAs. In ETA, each Region has an RA and four program chiefs.

DOL Agency Heads are responsible for implementing an organization and position management program for both National and Regional office positions in accordance with the policies and guidelines set forth in DLMS Chapter 3-2000, Position Management and Organizational Review, issued April 21, 1982. This document sets supervisory ratio (spans of control) objectives for the DOL of one to eight (1:8) for supervisors who do not have other supervisors reporting to them and one to five (1:5) for supervisors who have subordinate supervisors. These objectives are based upon the historical experience of the DOL and are consistent with those used by the private sector. Minimum ratios of 1:4 and 1:3 have also been set. Interpretation and applications of the guidelines has only begun at the DOL.

Some Agencies have a low average span of control. For instance, in the Labor-Management Services Administration (LMSA) there is a GS-12 or higher supervisor for every five subordinates. The ratio in ETA is 1:5.3 and 1:5.7 in ESA.

Staff units or positions throughout the Regional organization of the Agencies are either "programmatic" (directly related to a program) or "administrative" (providing support such as personnel management, space management, supply, accounting and data processing).

Programmatic staff support is located both in the National office and in the Regional organization of the agencies.

Administrative staff support for the Regional Agencies is found in the Regional Agencies and in the Regional Administration and Management Office (RAMO). RAMO exists in each Region. Its RA reports to OASAM. These offices were established to provide administrative services to DOL organizational elements through the Region. This support includes administrative services (supplies, space management, security, etc.) financial management (data processing, accounting, budget planning and monitoring, general management analysis, etc.), personnel management (recruiting, reassignment, position classification, personnel records, etc), safety and health, and the equal employment opportunity program. Regional centralization of administrative support is consistent with the purpose of Standard Federal Regions as directed by OMB.

Conclusions

The existence of a Regional office creates expense in part due to the need for each Agency located there to have a structure of management positions. This overhead expense is relatively constant for an Agency regardless of the size of the agency in that Region. The smaller the Region, the higher the overhead costs when related to the total staff. Overhead costs can, therefore, be reduced by combining smaller Regional offices. The combination of two Regional offices would broaden the span of control for the RA but not beyond the span of the RA in some present larger Regions. There is evidence that combinations of two smaller Regional offices would not exceed management capabilities. Program (Area or District) offices would not be affected. For example, an LMSA Area office or a Federal Employees Compensation District office presently collocated with a Regional office would continue to deal directly with its customers from the same location.

Management experts universally agree that the creation of additional management layers in an organization adds to expense, dilutes authority and complicates communication and control. As stated in DLMS Chapter 3-2000, they add "to the review and coordination required to process work, thereby adding to the time and effort required to complete tasks." It is important, therefore, that the number of layers in the Agency organization be kept to a minmium. A management position with too narrow a span of control (i.e., a supervisory ratio less than the DOL objective) should be suspect. For example, in ESA, when an indivudual ARA is reponsible for fewer than six program offices, consideration should be given to the elimination of the position and the redelegation of its authority and responsibility.

The Position Management Program recently established by DLMS Chapter 3-2000 will lead to improved supervisory ratios by the application of guidelines during systematic reviews of organization structure. Based on span of control guidelines of 1:8 and 1:5, depending upon the supervisory layer, it is reasonable to expect that combined ratios of at least 1:6 can be achieved in each Agency for supervisory positions at GS-12 and above.

The existence of programmatic staff support at both the National and Regional office for each Agency and of administrative staff in both the agency and the RAMO at the Regional level provides the potential for duplication, and precludes any advantages of larger scale operation.

Recommendations

LABOR 5-1: Reduce the number of Regional Offices. The Secretary of Labor should direct that each Agency prepare plans to discontinue its Boston, Kansas City and Seattle Regional offices by combination with the New York, Denver and San Francisco Regions, respectively.

LABOR 5:2 Reduce supervisory layering and increase spans of control. The Secretary of Labor should direct that layers of supervision be reduced and narrow spans of control be broadened by:

- o Each Agency reviewing their Regional office structure and, when spans of control permit, eliminating the layer of supervision between the RA and the heads of program offices. Some authority and responsibility vested in a position to be eliminated would be redelegated to the RA but most would fall to the lower level - the head of the program office.
- o Giving high priority to the implementation of the Position Management program in DLMS Chapter 3-2000 in order to eliminate excessive supervisory positions.

LABOR 5-3: Centralize staff support. The Secretary of Labor should direct that each Agency review the staff positions and staff units in their Regional offices and make plans to obtain all administrative support from the RAMO and programmatic support from the National office. Programmatic support should exist in the Regional office as an exception when it can be shown to pertain solely to that Region and then only if it cannot reasonably be performed by the National office.

LABOR 5-4: OASAM responsibility. The Secretary of Labor should direct that OASAM work closely with the other DOL Agencies by providing guidance and assistance in the achievement of these changes.

Savings and Impact Analysis

All savings figures assume full implementation and are annual salaries using the 4th step of the grade level for GS positions, and level 1 for Senior Executive Schedule positions, plus 26 percent loading for fringe benefits.

- o The reduction of three Regions is estimated to save about $7,560,000 in the first year by elimination of 180 overhead positions. For each Agency, a comparison was made of the staff in each pair of Regional headquarters being combined and redundant positions identified. These included RAs, and ARAs, their secretaries and other staff positions. A reduction in the number of Regions will reduce the span of control for the agency head and permit better control by its National office over Regional program planning and execution. Impacts may include lower morale for affected supervisors and possible relocation expenses. While program offices in direct contact with the public will not be changed, there could be a perception that access to the Federal Government has been made more difficult.

- For ESA, a review of the supervisory layer below the RA, assuming the Regional consolidation proposed above, shows that eight ARAs would still have fewer than six program offices. The elimination of these ARAs and their secretaries, offset by an increase in grade for the heads of offices that would now report directly to the RA, would produce a net savings of $44123,000 in the first year. Program office heads would assume more authority and responsibility. A greater burden would be placed on the RA. On the other hand, decision-making would be enhanced in program offices. A similar review of other Agencies was not made.

- It is estimated that in excess of $727,000 can be saved in the first year by the implementation of the announced Position Management Program to reduce other supervisory positions in those agencies with a supervisory ratio for GS-12 and above of less than 1:6. This estimate is based on aggregate supervisory ratios rather than on analysis of individual positions. The savings assume that half the supervisors identified as excess will be eliminated and the balance will be replaced by workers at one lower grade (the position evaluation effect of removing supervisory duties). The reason for adding to the non-supervisory force is that supervisors with narrow spans of control perform some non-supervisory work and require some replacement.

- Transfer of staff support from the Regional Agencies to the National office and RAMO will result in some savings due to more efficient operation and elimination of duplication. Regional officials (other than in RAMO) will be relieved of supervisory responsibility for these activities and thus allowed to concentrate on their line programs. Th extent of these savings cannot be quantified without additional study.

Savings Summary
($ millions)

	Year 1	Year 2	Year 3	3-Year Total
LABOR 5-1: Reduce regional offices	$7.6	$ 8.3	$ 9.1	$25.0
LABOR 5-2: Reduce supervisory layering and increase spans of control	0.4 0.7	0.5 0.8	0.5 0.9	1.4 2.4
Total	$8.7	$ 9.6	$10.5	$28.8

Implementation

All recommendations can be accomplished through the existing authority of the Secretary of Labor. The Secretary should direct that the following implementation steps be followed:

- Agency plans -- while described separately, these are interrelated and the total effect must be considered. Plans should be submitted to OASAM by a specified date.
    - LABOR 5-1: Each affected Agency head should make plans for the elimination of the Boston, Kansas City and Seattle Regional offices.
    - LABOR 5-2: Each Agency should review the structure of each of its Regional offices for opportunities to eliminate supervisory layers having narrow spans of control. Especially targeted positions should be those between the RA and the heads of program offices.
    - LABOR 5-3: Each DOL Agency's plans should be reviewed by OASAM. Where agreement cannot be reached between the agency head and OASAM, the Secretary will resolve the matter.
- Detailed plans -- Each DOL Agency will prepare detailed plans by a specified date to accomplish the approved changes, including:
    - Agency orders redelegating authority and reassigning responsibilities where needed;
    - appropriate agreements between OASAM and Agencies or between the RAMO and the Agency Regional office for transfer of administrative support to RAMO;
    - Agency plans for transfer of programmatic staff support to National Office; and
    - documentation of organization changes and associated position changes as required by DLMS Chapter 3-2000.

The implementation schedule will depend upon the time required to complete necessary plans. The schedule should integrate the various changes so as to minimize the effect on individual employees, and upon the accomplishment of the mission of the Department.

TARGETED JOBS TAX CREDIT (TJTC) PROGRAM

Question: Is there coordination between the TJTC and JTPA Programs?

Answer: Yes, both nationally and locally coordination is accomplished to the extent possible given the different legislative base for each program. For example, the Department recently aligned the eligibility income criteria for TJTC with the standards for JTPA, for reasons of equity and ease of program administration. In addition, TJTC policy issuances are sent to both the Wagner-Peyser administering agency and the State JTPA liaison so that coordination can be accomplished at the State level.

Locally each State Wagner-Peyser agency is charged with the responsibility of ensuring that local offices coordinate TJTC activities with not only JTPA agencies but all agencies serving JTJC eligibles. Recent compliance review reports submitted by Department of Labor regional offices indicate that this responsibility is being carried out and that coordination is being accomplished.

Question: Is the TJTC Program being effectively used as a marketing tool for employment of target group members who have completed JTPA training?

Answer: The Department has no data on this issue. Informal reports from the Department's regional staff and from JTPA forums suggest that JTPA with its emphasis on "Partnership" with the private sector has been using TJTC locally as part of their placement package.

EVALUATION OF TARGETED JOBS TAX CREDIT PROGRAM

Question: The Targeted Jobs Tax Credit program is currently the subject of a comprehensive evaluation sponsored by the U.S. Department of Labor and conducted by MACRO Systems INC. What aspects of the program will be covered in the study?

Answer: The aspects of the Targeted Jobs Tax Credit program (TJTC) which the study will examine are:

- its short-term net employment and earnings effects overall and on the largest target groups (e.g., youth and perhaps, welfare recipients, veterans and the handicapped);
- the cost-effectiveness of the TJTC with respect to (a) program administration, (b) staff utilization, and (c) the benefits to participating agencies and participants in generating jobs for target group workers;
- the key provisions and aspects of the TJTC that contribute to or impede its use and effectiveness;
- the effects of TJTC on the hiring and retention practices of employers with respect to the TJTC eligible target group and;

- the effects of the tax credit on aggregate national employment of targeted and non-targeted groups.

Question: Why hasn't there been an evaluation, until now, of whether the more than 6-year old program's benefits equal or exceed its costs?

Answer: Amendments to the TJTC legislation in 1981 and 1982 made several significant changes in the TJTC eligibility provisions. These were:

- eligibility of cooperative education students was restricted;
- a summer employment tax credit for youth ages 16 and 17 was added;
- AFDC recipients were added as an eligible target group and;
- retroactive certification--allowing credits for persons already hired--was eliminated.

These changes were the primary cause of TJTC certifications dropping 51% in Fiscal Year 1982. Therefore, it is only now that a sufficiently lengthy post treatment period (two years) has elapsed for measuring benefits to members of the current TJTC target groups.

It should be pointed out that, although there will be some examination of cost-effectiveness, the study being undertaken will not be a cost-benefit study. Because the intent of TJTC is to assist target group members to find jobs, its effects may primarily be to redistribute jobs between targeted and non-targeted workers and, therefore, a standard cost-benefit framework would not be an appropriate evaluation device.

Question: Will the results be available so that they may be considered in determing whether to extend the program past its expiration date of October 1, 1985?

Answer: The Employment and Training Administration expects to receive the first interim report from this study on April 15, 1985. This report will be based on interviews with program administrators and will address issues such as:

- what marketing and outreach approaches appear to be most effective;
- to what extent are non-ES agencies, such as Job Training Partnership Act, Service Delivery Area, involved in TJTC?
- what factors have led to use or nonuse of the TJTC?
- what administrative and legislative changes could be made to improve the administration of TJTC?

In brief, partial answers, from the perspective of program administrators, to questions of cost-effectiveness, key provisions of TJTC, and effects on employers hiring practices will be available in late April or May.

The remainder of the study, which will examine TJTC's employment and earnings impacts and effects on aggregate employment will not be available until March of 1986.

Question: Why are you recommending elimination of the program before results of the evaluation are available?

Answer: The estimated revenue loss attributed to the Targeted Jobs Tax Credit is $415 million FY 1985. Continuing this large tax expenditure can be justified only if the program is achieving its intended effects. Our best evidence indicates that it is not, and that the vast majority of targeted individuals hired by firms are hired without the aid of the credit. In 1981 between 2.4 million and 3.0 million economically disadvantaged youth were hired by the private for-profit sector. During Fiscal Year 1981, there were 176,000 certifications for economically disadvantaged youth, or a participation rate of 6 to 8 percent of the eligible hires. Estimates of the participation rate for several other eligible groups were not greater than 10 percent. In Fiscal Year 1984, there were 328,213 certifications of economically disadvantaged youth. Assuming that the same number of economically disadvantaged youth were hired in 1981 and 1984 implies a 1984 participation rate of 11 to 14 percent of eligible hires. In other words, almost nine out of ten economically disadvantaged youth, who were eligible for the credit, found employment without the benefit of the TJTC.

It is also important to recognize that even when the TJTC is directly responsible for the employment of a targeted employee, no net increase in targeted employment need occur. This is so because the credit may result in a reallocation of employment between new targeted workers who qualify for the credit and previously employed targeted workers who do not. If there is an increase in targeted employment as a result of the TJTC, it may come at the expense of nontargeted but nonetheless low-paid individuals who are displaced by the targeted individuals.

Finally, increases in targeted employment by firms claiming the credit are counterbalanced by the loss of employment in other sectors of the private economy. The cost of the TJTC program ultimately must be financed either through higher taxes or lower government outlays. Financing the credit results in lower output and employment in other sectors of the economy, which offsets any higher output and employment of businesses using the TJTC. For example, if the program is financed by higher income taxes, firms elsewhere in the economy will tend to reduce their output and correspondingly their employment.

SECTION 515 OF THE TREASURY-POSTAL SERVICE APPROPRIATION ACT

Question: Your budget justifications show, in a number of accounts, an intention to withhold from obligation a portion of the amounts appropriated for fiscal year 1985. This is explained as a reduction required by section 515 of the Treasury, Postal Service, and General Government Appropriations Act, 1985 (H.R. 5798). But section 515 was never considered or enacted by Congress. Instead, Congress enacted a continuing resolution that only provided that the sums that the CR made available for activities provided for in the Treasury bill would be subject to section 515. In other words, the CR never made section 515 applicable to your agency. Therefore, would not the budget authority reductions for FY 1985 shown in your justifications constitute an illegal impoundment?

Answer: The Continuing Resolution for 1985 enacted by the Congress, Public Law 98-473, incorporated the Treasury, Postal Service, and General Appropriations Act, 1985 (H.R. 5798) (hereafter "Treasury bill") by reference, by including the following provision:

> (j) Such sums as may be necessary for programs, projects, or activities provided for in the Treasury, Postal Service and General Government Appropriations Act, 1985 (H.R. 5798) to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference as passed by the House of Representatives on September 12, 1984, as if enacted into law (with the exception of the provisions involved in amendments numbered 24 and 26 which shall be effective as if enacted into law)... emphasis added

Treasury bill, in Section 515, establishes a reserve of 10% of FY 1985 budget authority provided "by this or any other Act" (emphasis added) for consulting services, management and professional services, and special studies and analyses for those agencies having budget requests for such services in excess of $5 million.

Implicit in your question is the recognition that the Treasury bill has been incorporated by reference in the CR. Your question further recognizes that the bill's general provisions, including Section 515, have been incorporated by reference and apply at least as to those agencies for which the Treasury bill provides appropriations. However, your question asserts that because appropriations for this Department are not provided in the Treasury bill, the Section 515 reductions in FY 1985 budget authority for this Department may constitute an illegal impoundment. We disagree with this characterization of the Section 515 witholding for the reasons which follow. In our opinion, the withholdings are mandated by clear Congressional enactments.

It is clear from the language of the Continuing Resolution that the Congress intended to enact the Treasury bill by reference. Unlike the CR's of past years, the FY 85 CR specified that the three bills incorporated by reference in the CR, i.e., the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1985 (H.R. 5743), the District of Columbia Appropriations Act, 1985 (H.R. 5899) and the Treasury bill, were to be treated "as if enacted into law." The language adopted in referencing the Treasury bill is parallel to that used in the other two bills, but reflects the different procedural posture of the bill, the CR specifies the respective conference committee versions of each bill "as if such Act has been enacted into law." In the case of the Treasury bill, the Congress chose to reference the conference version as passed by the House on a specific date and with the addition of two amendments which had failed to pass the House on that date, and the CR necessarily adopts language to reflect these complications, i.e., that both the conference version passed by the House and the two amendments are to be treated "as if enacted into law." The result is the same as the Agriculture and D.C. bills.

The Congress having thus incorporated the provisions of the Treasury bill in the CR by use of the language "as if enacted into law," it is necesary to examine the language of Section 515 itself to determine its applicability. That section clearly and unambiguously states that the restriction it contains is applicable to budget authority provided "by this or any other Act." In contrast, where Congress intended another result, i.e., limiting the application of a general provision only to those agencies for which appropriations are provided in the Treasury bill, it adopted language which explicitly accomplished that result. For example, in section 601 of the Treasury bill, the Congress stated, "No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress."

It is a longstanding practice that many general provisions of government-wide applicability are enacted through the Treasury appropriations act. Thus, this act annually contains, inter alia, a provision relating to the interagency financing of boards or committees (section 610), modifying the statutory law of title 31; and one setting maximum purchase prices for motor vehicles (section 602). It is beyond argument that in those years in which the Congress enacts the regular Treasury, Postal Services, and General Government Appropriations Act, all agencies are subject to all general provisions included in that act. The Congress effects this government-wide application by adopting the same language used in the FY 1985 Treasury bill, i.,e., or any other Act."

However, under your interpretation of the FY 1985 CR, all agencies other than the Treasury, Postal Service, the Executive Office of the President, GSA, and OPM (plus some small "related agencies") would be free to ignore all such general provisions in the current fiscal year. Such a result is plainly inconsistent with the longstanding congressional practice; the effect would be to read out of Section 515 the words "or any other Act."

Finally, our view is consistent with decisions of the Comptroller General, who has consistently held that CR's incorporate not only the dollar amounts contained in the referenced document, but also any limitations and Congressional mandates included in the reference document. See, e.g., B-202787(1) (May 1, 1981); and B-202975(1) L/M (November 3, 1981).

In summary, the CR incorporated the Treasury bill, including its general provisions, by reference. Section 515 of those provisions clearly specifies that its terms apply to budget authority provided by "this or any other Act." Therefore, the Congress enacted through this means a reduction of budget authority applicable government-wide.

"CONSULTANT" RESCISSIONS

Question: Why have rescission requests been made for national activities under the Job Training Partnership Act and why are some of these funds being held in reserve?

Answer: Two laws were passed during 1984 which contained provisions relating to reductions for consulting services, management and professional services, and special studies and analyses. The first of these two laws, the Deficit Reduction Act of 1984, required in Section 2901 that the Executive Branch identify savings in this management category which could be included in a proposed rescission message to be transmitted to the Congress along with the 1986 budget. The second legislative mandate, Section 515 of the Treasury-Postal Service Appropriations Act, 1985, required the withholding from obligation of 10 percent of the amount intended for consulting services for 1985. Pursuant to this requirement, $7.3 million from the Training and Employment Services Appropriation account was reserved. These reserved funds were excluded from previously agreed upon savings to be proposed pursuant to the Deficit Reduction Act. Thus, no additional savings to meet the requirements of these two different laws were required.

Question: How can you justify calling programs like 70,001, OIC's, and the Human Resources Development Institute "Consultants and Travel"? This is simply not the spirit or the intent of the DeConcini amendments.

Answer: The definition of "consultant services" for purposes of responding to the Congressional limitations imposed was the expanded definition for "Advisory and Assistance Services" recommended by the Cabinet Council on Management and Administration and approved by the President.

Many of the projects which will be eliminated by the rescission do not directly serve the disadvantaged with the funds proposed for rescission. These contractors and the services they provided using Federal funds were particularly valuable in making the transition to the new decentralized system under JTPA; however, with the States assuming the primary responsibility for program operations, these services should now be more appropriately financed at the State level.

Most of the disadvantaged individuals directly served by the JTPA Pilots and Demonstrations are in programs serving the handicapped. These projects serving the handicapped are not affected by the proposed rescissions.

$3.8 MILLION RESCISSION PROPOSAL

Question: Congress has enacted language which provides the necessary funds to begin a permanent resolution to this problem. Why doesn't the Department simply follow the law instead of going another six month round of delays?

Answer: As mentioned previously, until the passage of the 1982 Amendments to the Wagner-Peyser Act, there were no issues concerning funding for the independent retirement plans. The issue arose when the ES funding formulas changed from an administratively determined staff-year basis formula to a statutory formula. The staff-year basis recognized each States' personnel compensation cost, including retirement, in determining a States' annual allocation whereas the statutory formula is based on relative shares of the prior year allocation, civilian labor data and number of unemployed to determine State allocations. The statutory formula does contain a hold harmless provision which provides a State at least 90 percent of its relative share of the prior year.

The Department believes that the five SESAs should fund their retirment costs within available resources for several reasons. First, the initial application of the Wagner-Peyser formula used each States' FY 1983 funding level as a factor in the allocation and the annual amortization payment was made by each of these States from that allocation. Thus, the annual amortization costs is already built into the States' funding base. Second, the States now have total flexibility to use Wagner-Peyser resources as they choose, including using a larger share of their resources to fund their retirement costs. Third, the States have the option of amending their retirement plans to reduce costs to live within existing resources. South Dakota, the only other State with an SESA independent retirement plan, took such action. The amendment to their plan eliminated the unfunded liability of their plan. Fourth, approximately 50 percent of the annual amortization costs of the unfunded liability is associated with the Unemployment Insurance program. These costs are funded annually as part of each State's UI allocation. For these reasons, the Department feels the additional $3.8 million of funds are not required and has submitted a supplemental requesting withdrawal of these funds.

JTPA--TITLE III--DISPLACED WORKERS

Question: How much money was available and how much money has been spent in each of the three Title III grant periods for both the discretionary and formula pots?

Answer: For Fiscal Year 1983, a total of $110 million was available for the Title III dislocated worker program; for the transition period, a total of $94,250,000 was available. For the current period, Program Year 1984, a total of $222,500,000 is available.

Expenditure information is not yet available for Program Year 1984 funds. For Fiscal Year 1983 and the transition period, States reported that they had expended, through June 30, 1984, a total of $66,174,451 in formula funds and $11,307,992 of discretionary funds.

Question: How much money is unspent by State in both the discretionary and formula pots, and what percentage by State does that represent of their total availability?

Answer: Expenditure information is not yet available for Program Year 1984 funds. Attached are reports showing the total Fiscal Year 1983 and transition period funds available to and expended by the States for the formula and national reserve funds. The relatively low level of expenditures through this period is because (1) the initial $110 million was made available before JTPA was fully functional and (2) States had no ongoing programs or experience with dislocated workers programs prior to the appropriation of funds for Title III. Indications are that the program is operating closer to capacity at this time and the expenditure information displayed in the attached report in no way reflects the current rates of expenditures in the various States.

JTPA - DISLOCATED WORKERS
TITLE III - FORMULA AND RESERVE
OBLIGATIONS AND EXPENDITURES
AS OF 6-30-84

	FORMULA				NATIONAL RESERVE				TOTAL OF FORMULA AND RESERVE			
	OBLIGATIONS	EXPENDITURES	UNEXPENDED BALANCE	PERCENT UNEXPENDED	OBLIGATIONS	EXPENDITURES	UNEXPENDED BALANCE	PERCENT UNEXPENDED	OBLIGATIONS	EXPENDITURES	UNEXPENDED BALANCE	PERCENT UNEXPENDED
Alabama	3,852,231	2,473,778	1,378,453	35.8%	3,205,328	824,599	2,380,729	74.3%	7,057,559	3,298,377	3,759,182	53.3%
Alaska	269,573	5,448	264,125	98.0%	0	0	0	--	269,573	5,448	264,125	98.0%
Arizona	1,707,367	774,608	932,759	54.6%	500,000	0	500,000	100.0%	2,207,367	774,608	1,432,759	64.9%
Arkansas	1,276,508	968,323	308,185	24.1%	554,000	17,636	536,364	96.8%	1,830,508	985,959	844,549	46.1%
California	16,533,474	7,674,582	8,858,892	53.6%	8,608,465	2,382,089	6,226,376	72.3%	25,141,939	10,056,671	15,085,268	60.0%
Colorado	1,435,576	568,248	867,328	60.4%	0	0	0	--	1,435,576	568,248	867,328	60.4%
Connecticut	1,333,602	1,095,419	238,183	17.9%	0	0	0	--	1,333,602	1,095,419	238,183	17.9%
Delaware	312,711	172,468	140,243	44.8%	0	0	0	--	312,711	172,468	140,243	44.8%
District of Columbia	494,651	270,756	223,895	45.3%	600,000	336,191	263,809	44.0%	1,094,651	606,947	487,704	44.6%
Florida	4,743,860	943,863	3,799,997	80.1%	500,000	63,441	436,559	87.3%	5,243,860	1,007,304	4,236,556	80.8%
Georgia	2,472,501	258,315	2,214,186	89.6%	300,000	96,482	203,518	67.8%	2,772,501	354,797	2,417,704	87.2%
Hawaii	339,938	155,811	184,127	54.2%	0	0	0	--	339,938	155,811	184,127	54.2%
Idaho	558,483	367,606	190,877	34.2%	310,106	0	310,106	100.0%	868,589	367,606	500,983	57.7%
Illinois	9,757,536	6,429,323	3,328,213	34.1%	1,665,000	124,622	1,540,378	92.5%	11,422,536	6,553,945	4,868,591	42.6%
Indiana	4,831,893	2,522,731	2,309,162	47.8%	3,216,463	146,600	3,069,863	95.4%	8,048,356	2,669,331	5,379,025	66.8%
Iowa	1,747,418	1,266,898	480,520	27.5%	300,000	70,016	229,984	76.7%	2,047,418	1,336,914	710,504	34.7%
Kansas	851,214	271,528	579,686	68.1%	455,996	283,795	172,201	37.8%	1,307,210	555,323	751,887	57.5%
Kentucky	2,427,506	694,536	1,732,970	71.4%	600,000	93,432	506,568	84.4%	3,027,506	787,968	2,239,538	74.0%
Louisiana	2,520,078	735,597	1,784,481	70.8%	300,000	212,837	87,163	29.1%	2,820,078	948,434	1,871,644	66.4%
Maine	567,104	230,363	336,741	59.4%	69,300	38,440	30,860	44.5%	636,404	268,803	367,601	57.8%
Maryland	2,475,377	1,218,007	1,257,370	50.8%	1,400,000	306,589	1,093,411	78.1%	3,875,377	1,524,596	2,350,781	60.7%
Massachusetts	3,036,060	889,923	2,146,137	70.7%	500,000	156,647	343,353	68.7%	3,536,060	1,046,570	2,489,490	70.4%
Michigan	11,071,482	1,391,239	9,680,243	87.4%	2,816,470	121,886	2,694,584	95.7%	13,887,952	1,513,125	12,374,827	89.1%
Minnesota	2,168,848	1,547,065	621,783	28.7%	800,000	424,241	375,759	47.0%	2,968,848	1,971,306	997,542	33.6%
Mississippi	1,676,685	1,398,178	278,507	16.6%	675,000	231,806	443,194	65.7%	2,351,685	1,629,984	721,701	30.7%
Missouri	2,945,186	2,595,128	350,058	11.9%	500,000	395,608	104,392	20.9%	3,445,186	2,990,736	454,450	13.2%
Montana	436,120	364,431	71,689	16.4%	904,034	386,396	517,638	57.3%	1,340,154	750,827	589,327	44.0%

	FORMULA				NATIONAL RESERVE				TOTAL OF FORMULA AND RESERVE			
	OBLIGATIONS	EXPENDITURES	UNEXPENDED BALANCE	PERCENT UNEXPENDED	OBLIGATIONS	EXPENDITURES	UNEXPENDED BALANCE	PERCENT UNEXPENDED	OBLIGATIONS	EXPENDITURES	UNEXPENDED BALANCE	PERCENT UNEXPENDED
Nebraska	529,689	161,288	368,401	69.6%	0	0	0	--	529,689	161,288	368,401	69.6%
Nevada	685,505	630,791	54,714	8.0%	0	0	0	--	685,505	630,791	54,714	8.0%
New Hampshire	418,345	252,955	165,390	39.5%	0	0	0	--	418,345	252,955	165,390	39.5%
New Jersey	4,414,316	950,935	3,463,381	78.5%	1,000,000	229,921	770,079	77.0%	5,414,316	1,180,856	4,233,460	78.2%
New Mexico	693,871	190,664	503,207	72.5%	0	0	0	--	693,871	190,664	503,207	72.5%
New York	9,474,062	3,472,199	6,001,863	63.4%	1,763,903	799,847	964,056	54.7%	11,237,965	4,272,046	6,965,919	62.0%
North Carolina	3,495,725	2,013,796	1,481,929	42.4%	685,326	84,783	600,543	87.6%	4,181,051	2,098,579	2,082,472	49.8%
North Dakota	172,161	52,928	119,233	69.3%	0	0	0	--	172,161	52,928	119,233	69.3%
Ohio	10,541,741	3,862,426	6,679,315	63.4%	2,723,000	645,085	2,077,915	76.3%	13,264,741	4,507,511	8,757,230	66.0%
Oklahoma	783,039	108,431	674,608	86.2%	0	0	0	--	783,039	108,431	674,608	86.2%
Oregon	2,321,216	1,397,370	923,846	39.8%	1,600,000	373,268	1,226,732	76.7%	3,921,216	1,770,638	2,150,578	54.8%
Pennsylvania	9,277,387	2,691,882	6,585,505	71.0%	2,638,498	949,212	1,689,286	64.0%	11,915,885	3,641,094	8,274,791	69.4%
Rhode Island	674,998	674,998	0	0.0%	600,000	399,239	200,761	33.5%	1,274,998	1,074,237	200,761	15.7%
South Carolina	2,289,046	968,579	1,320,467	57.7%	300,000	152,836	147,164	49.1%	2,589,046	1,121,415	1,467,631	56.7%
South Dakota	184,099	19,369	164,730	89.5%	0	0	0	--	184,099	19,369	164,730	89.5%
Tennessee	3,616,644	1,003,685	2,612,959	72.2%	1,000,000	48,461	951,539	95.2%	4,616,644	1,052,146	3,564,498	77.2%
Texas	5,148,230	1,726,298	3,421,932	66.5%	5,370,000	205,725	5,164,275	96.2%	10,518,230	1,932,023	8,586,207	81.6%
Utah	628,123	421,614	206,509	32.9%	187,500	0	187,500	100.0%	815,623	421,614	394,009	48.3%
Vermont	210,920	154,768	56,152	26.6%	0	0	0	--	210,920	154,768	56,152	26.6%
Virginia	2,500,445	1,673,338	827,107	33.1%	807,370	50,969	756,401	93.7%	3,307,815	1,724,307	1,583,508	47.9%
Washington	3,706,653	1,456,399	2,250,254	60.7%	1,314,054	454,050	860,004	65.4%	5,020,707	1,910,449	3,110,258	61.9%
West Virginia	1,782,108	1,278,573	503,535	28.3%	738,560	0	738,560	100.0%	2,520,668	1,278,573	1,242,095	49.3%
Wisconsin	3,970,508	2,759,698	1,210,810	30.5%	1,313,950	201,243	1,112,707	84.7%	5,284,458	2,960,941	2,323,517	44.0%
Wyoming	149,448	109,347	40,101	26.8%	0	0	0	--	149,448	109,347	40,101	26.8%
American Samoa	28,905	22,853	6,052	20.9%	0	0	0	--	28,905	22,853	6,052	20.9%
Guam	120,341	8,866	111,475	92.6%	193,280	0	193,280	100.0%	313,621	8,866	304,755	97.2%
N. Marianas	4,685	0	4,685	100.0%	0	0	0	--	4,685	0	4,685	100.0%
Puerto Rico	3,323,044	826,229	2,496,815	75.1%	0	0	0	--	3,323,044	826,229	2,496,815	75.1%
Trust Territories	49,954	0	49,954	100.0%	0	0	0	--	49,954	0	49,954	100.0%
Virgin Islands	147,147	0	147,147	100.0%	0	0	0	--	147,147	0	147,147	100.0%
U.S. Total	153,185,337	66,174,451	87,010,886	56.8%	51,015,603	11,307,992	39,707,611	77.8%	204,200,940	77,482,443	126,718,497	62.1%

Question: By State, how much money of the unspent funds has been reallocated under the Secretary's authority in Section 301(d) of JTPA?

Answer: The legislation provides the Secretary of Labor the authority to reallocate only unobligated funds, not unexpended funds. While the Department does not collect information on State obligation of funds, we believe that most, if not all, funds have been obligated by the States.

Question: Why has the Secretary refused to use this authority? By this refusal to perform his duty under law, hasn't the Secretary added to a problem that could have been corrected? In fact, if the Secretary was performing his duty under Section 301(d) in a timely fashion, for each grant period, would we be in a position today for the Administration to request a rescission for this program?

Answer: The Department has not refused to use the reallocation authority. As stated previously, the Department only has the authority to reallocate unobligated funds. It does not have the authority to reallocate obligated, but unexpended funds. We believe that most funds have been obligated by the States.

JTPA--JOB CORPS

Question: In August 1984, the President signed the second supplemental appropriations act into law. This law provided $21.7 million for the repair and renovation of Job Corps Centers. Why has the Secretary refused to allocate these funds? Under what authority is he refusing to do so?

Answer: The Secretary has not refused to allocate the funds appropriated. Facility needs for all Job Corps centers had to be updated in order to develop a plan for utilization of the $21.7 million. The plan has been completed, and initial steps to obtain the services of a design contractor have been taken.

Question: It is my understanding that the Department of Labor has established a work group to develop procedures for the dismantling of the Job Corps. Could you please cite the authority you have to spend funds for this purpose?

Answer: An Employment and Training Administration staff member has been assigned to assist in contingency planning for the Job Corps budgetary proposal. Contingency planning activities have involved the identification of issues and general actions which would need to be addressed during a phasedown and closeout process. The expenditure of funds for these activities is consistent with and necessary for the administration of employment and training programs.

SEPARATE BUDGET ACTIVITY FOR OFFICE OF LABOR RACKETEERING

Question: Would it be useful for the Office of Labor Racketeering to have a separate budget activity?

Answer: There is a need to segregate OLR's unique program function from the IG's primary mission to conduct audits and investigations of the Department's programs and operation. However, the Department believes that this can be done by providing additional information in the justifications without a separate budget activity. Moreover, every attempt is now being made to reduce the number of separate lines printed in the budget in order to reduce administrative and overhead costs.

QUESTIONS SUBMITTED BY SENATOR JAMES A. McCLURE

$3.8 MILLION RESCISSION PROPOSAL

Question: During the 1950's, the Department of Labor advocated a policy which initiated personnel retirement systems within the State Employment Security Agencies. Since the State of Idaho, and four others, Utah, North Dakota, Oklahoma and Nebraska, did not yet have any retirement system, and independent retirement plan was developed for these States' Department of Employment Services under the direction of the Department of Labor.

Since this system was later deemed to be inconsistent with the plan being offered to other State employees, these five States agreed to close this system with the understanding that the Department of Labor would work out a thirty year amortization schedule for those employees who had been grandfathered.

The five States in question attempted to work with the Department but no amortization schedule was forthcoming. Because of this stonewalling on the Department's part, an amendment offered by Senator McClure was agreed to on last year's Continuing Resolution for $3.7 million. This money was intended to begin a funding schedule which would amortize this unfunded liability over a 30 year period. Senator McClure personally contacted Acting Secretary Ford to ask when the $3.7 million would be allocated, and his office was later told the Department was collecting the necessary data to allocate the money to the five States.

Now, however, the Department has stonewalled further and has impounded the funds. Why has it taken the Department eighteen months to resolve this issue?

Answer: Before answering the question, I would like to make some clarifications and provide additional background on this issue. The $3.8 million at issue here relates to a financing request of over $100 million (UI and ES) submitted by the five States.

Until the passage of the 1982 Amendments to the Wagner-Peyser Act, there was no issue concerning the independent retirement plans. The six State Employment Security Agencies (SESAs), including South Dakota, closed their plans to new employees at the time when the Employment and Training Administration (ETA) approved a cost of living provision which the SESAs had been seeking for years. This provision dramatically increased the unfunded liability of these plans. ETA allowed the use of granted funds to amortize the liability over 30 years, but did not guarantee additional funding.

Prior to Fiscal Year (FY) 1984 both the Unemployment Insurance

(UI) and Employment Service (ES) annual allocations were based on a formula which allocated resources on a staff year basis. These staff years were multiplied by the States personnel compensation rate to determine total resources. The retirement plan costs were factored into each State's personnel compensation rate.

With the amendments to the Wagner-Peyser Act, the staff year methodology was discontinued for the ES and resources were allocated based on statutory formula which takes account of a State's relative share of labor force and unemployment, as well as the prior year's funding. The ES allocation under the statutory does not separately address the cost of the independent retirement plans. The initial application of the statutory formula used each State's FY 1983 funding level as a factor in the allocation. This funding level included costs for the independent retirement plans. States now have total flexibility in the use of their Wagner-Peyser allotments, including using their funds to finance their retirement plans. The Unemployment Insurance allocation formula continues to allocate resources on a staff year basis.

The five States began expressing their concern about the financing of the ES portion of their retirement plans after the initial Wagner-Peyser allotments were announced. Several of the States discussed this issue with ETA staff, and on December 12, 1983, ETA asked the States to provide additional information on their retirement plans in order to better understand the scope of the problem associated with the unfunded liability. ETA clearly indicated no committment toward additional funding.

The States submitted information on their plans to ETA on March 6, 1984, with their recommendation for immediate total funding (ES and UI) of $112.7 million for the unfunded liability. There is no national set-aside to fund these costs. On July 24, 1984, the five States wrote to the Department demanding payment of the total unfunded liabilities. The Department responded on August 8, 1984 that the Department was still examining the issue.

Subsequent analysis indicated that the Program Year 1984 allocation to the States did fully account for their total availability prior to the Wagner-Peyser amendments. It was further revealed that all but one of the affected States gained in total availability year to year. It was also clear that the estimated annual amortization of the unfunded liability greatly exceeded $3.8 million. Information obtained from the five States indicated a total annual amortization amount of approximately $9.8 million, of which $4.8 relates to the Employment Service. Over the remaining estimated 25 years of the amortization schedule, these annual payments would be $246.8 million of which $120 million relates to the Employment Service.

DISAPPROVAL OF SUPPLEMENTAL LANGUAGE

Question: When Congress disapproves your supplemental language or you are otherwise required to stop withholding the funds, please provide an exact timetable and the precise steps you intend to take to implement the language enacted last fall. Also provide the steps you expect the States to take.

Answer: Should Congress disapprove the withholding, the funds would be released in ample time to be used as intended by the statutes governing their use so that the States would receive the funds in sufficient time to be used for their intended purpose.

THREE REASONS FOR A NEGATIVE SUPPLEMENTAL

Question: I received a letter from Under Secretary Ford on February 26, conveniently too late for the hearing scheduled that day before the Labor, HHS and Education subcommittee, which further points out the inconsistencies the Department is perpetuating with regards to a $3.7 million appropriation for five states unfunded liabilities in independent retirement systems.

The Department has transmitted a deferral notice which states the Department is conducting a study to determine how to allocate the funds. Then the Department turns around and adds supplemental justification language which reduces the authority to spend by $3.7 million. Now I have received a letter in which Under Secretary Ford clearly states in two places that the funds are being proposed for rescission.

If the Department intended to propose a rescission, as the man in charge of the Department clearly states, why wasn't this done?

Answer: In my letter to you dated February 25, 1985, in response to your letter of January 2, I stated that the Department had determined that the basic Employment Service grant would provide sufficient funding for the five states that indicated unfunded liabilities in independent retirement systems. Therefore, we were proposing to reduce the spending authority of these monies added by Congress in the 1985 appropriation act. In my response I used the word "rescission" in the general sense and not in specific budget terms as I felt this better conveyed my thoughts. A rescission, technically, reduces budget authority. The funds in question are unemployment trust funds which are basically derived from tax collections and which are appropriated as budget authority under substantive legislation when collected. Congress, in our appropriation act authorizes the level which may be expended from these appropriated taxes. Since our proposal in this instance is to reduce the level of unemployment trust funds expended and not the budget authority accruing to the fund, it is not, strictly speaking, a rescission.

LETTER FROM FORD B. FORD

Honorable James A. McClure
United States Senate
Washington, D.C. 20510

FEB 25 1985

Dear Senator McClure:

This is in response to your letter of January 2 in which you expressed again your hope that funds for State employment security agencies (SESAs) with an unfunded liability problem could be settled soon. We have determined that the basic Employment Service grant and the management flexibility provided the States, under Section 6 of the Wagner-Peyser Act, as amended, results in sufficient amounts to enable these States to meet their retirement plan needs. It is for this reason that these funds are being proposed for rescission.

With respect to the Administration of the Trade Adjustment Assistance (TAA) program, I am pleased to report that the fund source issue to pay SESAs for costs to administer the TAA program has been resolved. The SESAs have been authorized to use Unemployment Insurance (UI) base grant funds for TAA administrative costs. Accordingly, an initial Fiscal Year (FY) 1985 allocation of $50,000 was made to the State of Idaho on December 14, 1984, to cover its immediate program funding needs. States were subsequently instructed to submit documented requests for additional program funds to the Department as needs arise through the end of FY 1985. Continuation of the TAA program through FY 1986 is not recommended in the President's budget, and FY 1985 TAA funds remaining have been requested for rescission. These activities will be funded through the Job Training Partnership Act dislocated worker program.

If we may be of further assistance, please have a member of your staff contact Janice M. Sawyer, Administrator, Office of Financial Control and Management Systems, on 376-6585.

Sincerely,

Ford

Ford B. Ford

Question: What is the legal justification for proposing supplemental language that has the effect of being a rescission without having to go through the rescission process as required by the Budget Act?

Answer: Since changing the Congressional-limitation on use of unemployment trust funds in the Departments' 1985 appropriation act requires Congressional approval and the use of a rescission document was inappropriate, our only recourse was to submit a "negative" supplemental. We do realize that this type of supplemental is not governed by the provisions of the Budget Impoundment and Control Act. Our problem was to find a technical vehicle to request a reduction in the spending authority that does not involve a reduction in the total amount that should remain in the unemployment trust fund.

STATE INDEPENDENT RETIREMENT PLANS

Question: In 1980 and 1981, agreement was reached that the Administration published in the Federal Register of January 19, 1981 that required the States affected to close the separate retirement plans for their employment service agencies. That action caused the current unfunded liability in these States of an estimated $114 million. That's not $114 million today. That's about $3.8 million per year in today's dollars, plus interest to amortize the 30 year liability. Anyone who has paid a mortgage understands a 30 year amortization schedule. Over the last five years, the Department has stonewalled the States on this issue and left them holding the bag. In testimony today, it was mentioned that States have received a 14% increase in the block grant covering employment service funds. How many of the five States affected have received this increase?

Answer: The closing of the plans to future State Employment Security Agencies (SESAs) employees did not create the unfunded liability. The unfunded liability was created over the years by various enhancements to be paid out by the plans, the major enhancement being the inclusion of a cost of living adjustment. Second, the amount of the unfunded liability which the SESAs are seeking financing is approximately $112.7 million if paid today. The States have approximately 25 years remaining on their amortization schedules with total projected amortization of the unfunded liability being $246,000,000 (includes total ES & UI).

This funding issue materialized after the enactment of the Wagner-Peyser amendments which contained a statutory formula for the distribution of Wagner-Peyser resources. Prior to FY 1984 both the Employment Service and the Unemployment Insurance Service annual allocations were determined by an administrative formula which allocated resources on a staff year basis. These staff years were multiplied by the States personnel compensation rate to determine total resources. Retirement plan costs including the annual amortization payments for these closed plans are part of each States personnel compensation rate. The ES allocation under the statutory formula uses relative shares of the prior year allocation, civilian labor force data and number of unemployed to determine individual State allocation amounts. The initial application of the statutory formula used each States FY 1983 funding level as a factor in the allocation. This funding level included costs for the independent retirement plans. States now have total flexibility in the use of their Wagner-Peyser allotments, including using a larger portion of their funds to finance their retirement plans. South Dakota, a sixth affected State, eliminated it's unfunded liability by amending it's plan.

The 14 percent increase from FY 1983 through PY 1984 is the national level increase. Each State agency receives their allocation based on the statutory formula prescribed in the Wagner-Peyser amendments. Four of the five State agencies with independent retirement plans have received increases in excess of 14 percent. They are Idaho, North Dakota, Nebraska and Utah.

STATE INDEPENDENT RETIREMENT PLANS

Question: What is the amount of increase or decrease they did receive?

Answer: The following table provides the changes in State Allotments from FY 1983 to PY 1984 for the five States affected:

State	FY 83 1/	PY 84	Percent Change
Idaho	$5,748,155	$6,590,791	14.66
North Dakota	4,783,380	5,484,588	14.66
Nebraska	5,645,377	6,472,947	14.66
Oklahoma	14,730,193	14,267,356	-3.1
Utah	9,669,140	11,086,564	14.66

The Oklahoma agency which had a decrease for the period FY 1983 through PY 1984 had unspent carry-in to PY 1984 of $867,715, about 6 percent of the PY 1984 allotment.

1/ Adjusted Employment Service base to reflect Wagner-Peyser 7a and 7b activities.

STATE INDEPENDENT RETIREMENT PLANS

Question: How can you expect them to absorb the unfunded liability without destroying the benefits promised to the enrolless in the closed employment service retirement plans or shutting down their current agency operations?

Answer: The total unfunded liability in the agencies is funded from two basic sources: Unemployment Insurance (UI) grants and Employment Service (ES) grants. The UI funding formula allocates resources on a staff year basis multiplied by the States personnel compensation rate to determine total dollars. Retirement plan costs, including UI share of the unfunded liability, are part of the annual personnel compensation rate. The ES resources are currently allocated by a statutory formula prescribed in the Wagner-Peyser amendments. Although a specific number of staff years or specific costs such as a State's salary or benefit rate are not specifically recognized through formula factors, the agencies now have total flexibility to utilize their ES resources as they choose, including funding the costs of their retirement plans.

Should the funds available to the agencies not be sufficient to maintain the current retirement benefits, the States will have to make a choice of reducing benefits or supplementing the costs of these retirement plans with non-Federal resources. As an example, South Dakota, a sixth agency with an independent retirement plan, took managment action to reduce retirement cost by amending their retirement plan to limit future cost of living increases. This change by itself eliminated the unfunded liability in this agency.

HISTORY OF THE NEGOTIATIONS: INDEPENDENT RETIREMENT PLANS IN STATE EMPLOYMENT SECURITY AGENCIES BETWEEN 1957 AND 1981

INTRODUCTION

During the 1950s, the Bureau of Employment Security (BES) in the U.S. Department of Labor (DoL), along with many other federal agencies, became concerned with providing adequate fringe benefit protections not only to federal employees but to employees of programs supported by federal grant funds as well. Many federally supported programs were operated by state governments and were slower to develop fringe benefit packages than the federal government. After informal analysis of the availability of a range of fringe benefits, the Bureau of Employment Security determined that a systematic survey of state employment security agency (SESA) fringe benefits was necessary.

On November 21, 1957, Mr. Robert C. Goodwin, Director of the Bureau of Employment Security, issued Letter No. 380 which requested that SESAs complete a survey checklist, indicating the kinds of fringe benefits available to the agency's employees. Subsequently, on May 21, 1958, Goodwin transmitted Letter No. 422 reporting the findings of the SESA fringe benefit survey. Exhibit 1 is a copy of Letter No. 422 and its summary of available fringe benefits in SESAs.

Two points laid out in Letter No. 422 are central to understanding the impetus many SESAs received as a result of this letter. First, Goodwin stated:

> "The questionnaire asked what factors had prevented the adoption of employee benefits not provided and also what factors had prevented the liberalization of these benefits. Analysis of the replies to these questions indicated that, because of the nature of most deterrents to adoption or liberalization of benefits, only state action could provide relief. In comparatively few instances was a Bureau policy or fiscal standard given as the reason for benefits not being provided. This would indicate that a State agency must work toward statewide action to get those benefits which it considers desirable."

In the next paragraph, Goodwin went on to state:

> "The questionnaire replies did indicate that there are areas in which the Bureau might point out to an individual agency benefits which it might consider providing, even under the existing limitations. Accordingly, we plan to consult with individual State agencies to improve employee benefit programs where such action appears appropriate."

At that point in 1958, there were ten states which did not have a retirement plan available to their employees. Each of the ten agencies had arranged to provide OASI for their employees. The original ten states without retirement plans were:

Alaska
Hawaii
Idaho
Kansas
Nebraska
North Dakota
Oklahoma
South Dakota
Utah
West Virginia

The Virgin Islands also did not provide a retirement plan.

BES focused its attention on these states and, beginning in 1958 and over the next several years, BES negotiated independent retirement plans with state employment security agencies in Idaho, Nebraska, North Dakota, Oklahoma, South Dakota and Utah.

The document which follows presents a chronological description of the history of the negotiations between BES and five of these states, excluding South Dakota.

Two primary sources of information were available for this project and provide the basis for the chronology of events related to the independent retirement plans. First, the five states prepared copies of relevant correspondence and documents from their files. Second, the Employment and Training Administration (ETA) of the U.S. Department of Labor, granted access to its files. Spanning the period of 1948 to 1982, the federal files contain approximately 12,000 to 14,000 pages of material concerning the independent retirement plans, including many handwritten notes. The federal files, augmented by the information supplied by each state, document the negotiation process.

CHAPTER ONE

SUMMARY OF BASIC FEDERAL POLICY

The relationship between the federal and state governments regarding the administration of the employment security system is a partnership which began evolving during the mid-1930s. The enactment of Title III of the Social Security Act in 1935 cemented the partnership arrangement by authorizing the unemployment insurance program, which is broadly defined in federal law but made operational through state laws.

The federal governnment provides guidance to state employment security agencies (SESAs) in administering programs in the form of directives and memoranda, budgetary decisions, and through the Employment Security Manual (the ES Manual). Part IV, section 1050, of the ES Manual deals with fringe benefit costs, describing to SESAs the standards for determining the allowability of costs associated with employee fringe benefits. Included in this section are such fringe benefits as unemployment compensation, worker's compensation, and OASI coverage. In addition, the costs of disability, health, life, and retirement plans are discussed. BES's decisions regarding each of the six independent plans were guided by section 1050 of the ES Manual. Exhibit 2 presents the 1980 language in section 1050 of the ES Manual.

The heart of the policy contained in section 1050 applying to retirement plans is that the share of costs paid with federal funds be fair and reasonable. Several criteria are set forth which describe "fair and reasonable," including a crucial one stating that the retirement costs and benefits should be comparable to the retirement benefits and costs paid in other state agencies. From this evolved the "rule of comparability."

The rule of comparability was first applied to the original proposals transmitted by the SESAs. Each SESA wishing to adopt an independent plan was required to show that two or more other independent plans existed in the state and to submit the characteristics of these other plans for analysis. BES then compared the SESA proposals to the other plans in their states prior to approving both benefits and costs.

Later, when statewide retirement plans had been adopted in several of the states with independent plans, the rule of comparability was modified to require that future state requests for improvements to SESA plans be compared to the statewide plan. Where the statewide plan did not include such benefits, the proposed improvements were usually denied. Ultimately, the rule of comparability was revised to mean that the SESA plans must be comparable to, but not exceed benefits and costs in, the U.S. Civil Service Retirement System (CSRS).

The final version of the rule of comparability was not the only context in which comparisons to CSRS were made. Almost from the outset of the independent plans, the upward limit of the value of benefits was that which federal employees received from CSRS. This point is expanded upon in the next paragraph. The fact that CSRS was set as the limit was particularly important whenever the rule of comparability was set aside or changed, since BES always fell back on comparisons to CSRS.

Related to the rule of comparability and of equal importance is the "Goldberg Doctrine." In response to an inquiry in 1961 from the AFL-CIO regarding the state employees in Illinois, the Secretary of Labor, Arthur Goldberg, addressed the issue of using grant funds for fringe benefits. The specific problem in Illinois at that time was the absence of a statewide policy or independent state agency example of certain types of fringe benefits deemed desirable by Illinois state employees.

The Goldberg Doctrine is paraphrased below:

> In general, the policy is that granted funds may be used for SESA benefits when state policy provides the same benefits. However, in absence of state policy, DoL will approve the use of granted funds when:

- benefits are authorized by the state legislature and approved by the Governor;
- similar benefits, in kind and amount, are provided by the federal government to its employees; and
- cost per employee does not exceed the cost which the federal government bears for similar benefits for its employees.

(See Exhibits 3 and 4.)

This policy was established on July 14, 1961 and was later utilized in a major decision involving the Utah agency's retirement plan. The Goldberg Doctrine formalized comparison to CSRS as the final litmus test for future decisions involving improvements to the SESA independent retirement plans.

Another type of policy technique invoked by BES and its successors, the Manpower Administration and the Employment and Training Administration, involved disapproving proposed modifications to the retirement plans due to budgetary constraints. This policy strategy avoids the substance of a proposal and denies it solely on the basis that it increases costs or that there are insufficient funds to meet any added costs.

The last important change in federal policy developed in the late 1970s when an Office of Management and Budget issuance required that all federal grantees operate in compliance with OMB Circular A-87. That circular defined the allowability of a variety of costs likely to be incurred by any federal grantee in accordance with 41 CFR 1-15. When Manpower Administration officials interpreted the meaning of the portion of these rules applying to fringe benefits, an entirely new era of negotiations opened with the SESAs. Original attempts at interpretation and later revisions of the interpretations suggested at various times that part of the SESA costs would be unpaid, that the independent plans must merge with the statewide plans, and even that the independent plans be arbitrarily closed.

It is the policy changes made in response to OMB Circular A-

87 which still directly affect the SESAs with independent retirement plans. ETA has only recently published proposed rules to implement the portion of A-87 affecting retirement and fringe benefit programs (Summer 1983). These proposed rules are incorporated within the new proposed regulations for the Employment Service and, as published, the language protects the six states with independent retirement plans. If this portion of the proposed regulations is adopted, ETA will have met one part of its commitments to the six states.

The most pressing issue facing the six states, however, results from both the implementation of the A-87 cost rules and from the Job Training Partnership Act amendments to the Wagner-Peyser Act (P.L 97-300, October 13, 1982). Beginning in fiscal year 1984, Wagner-Peyser funds will be allocated to the states on a dollar basis in accordance with state demographic factors instead of on a position basis as was the case in prior years. (In the past, after the number of positions each state would receive had been determined, each individual state salary and fringe benefit rate was then used to determine the total dollars per position that each state would receive.) Under the new allocation formula, positions are not recognized. The total dollars available are divided according to the formula and its hold harmless factors. Costs for the Employment Service (ES), including retirement and fringe benefits for ES personnel, must be financed by the dollars received. It is up to the state to determine the number of positions it can fund with the available resources.

This new allocation formula provides more resources to states with a higher proportion of the Civilian Labor Force and with higher rates of unemployment. However, the six states with independent retirement plans are rural, low population states that tend to have lower rates of unemployment The annual costs of paying off the accrued unfunded liabilities are established through a 30-year amortization schedule which requires 30 equal annual payments. The fixed annual payments in the six states in the face of the predictable reductions in ES funds present critical problems. Without supplemental funds to make repayments on the unfunded liabilities, the six states face, at a minimum, severe funding shortages and may be forced to lay off personnel to meet the continuing costs of the unfunded liability.

Finding solutions to the difficult issues currently surrounding the six independent retirement plans will be aided by understanding the evolution of the policies which have shaped these plans.

CHAPTER SIX

THE COLA STRATEGY AND THE ROLE OF THE A-87 COST RULES

Following adoption of the package deal by all of the states, energies were directed to the COLA and the credit for military service provisions. Various individual state efforts to seek approval of the COLA failed, including formal proposals, in-person appeals, and requests from Congressional members. The two sides were sharply divided on the issue, holding differing understandings regarding previous commitments or promises regarding the COLA. Some understanding of each side's position may facilitate the chronicle of the negotiations.

The State View. A cost-of-living adjustment was an accepted feature of the CSRS system. Increases were tied to annual inflation to protect annuitants from decreases in buying power. Annuitants of SESA plans had never received adjustments to their benefits, which had been badly eroded by inflation. Recent improvements to the SESA plans had included an increase in the employer and employee contributions which were understood to cover at least part of the costs of the COLA.

The Federal View. SESA employees received both Social

Security and independent retirement plan benefits, while federal employees received only CSRS benefits. Social Security benefits were adjusted through a COLA feature. When these benefits were combined with the independent retirement plan benefits, the amounts were equal to or superior to those received through CSRS. All the independent plans carried large unfunded liabilities created by earlier improvements, and a COLA would dramatically increase these unfunded liabilities. There were no funds available to meet the increased costs which would be created by the adoption of a COLA feature.

It was against this backdrop that efforts to secure COLAs for each of the six independent retirement plans began. Many meetings were held in 1975 and 1976 to discuss the package deal and the absence of the COLA in the package deal. Most states argued against increasing the employee contribution to 7 percent if it would not pay for a COLA (for example, Idaho letter, June 30, 1975). The Manpower Administration Actuary clarified this misunderstanding by pointing out that the employee contribution would not apply to COLAs, stating that only the employer contribution would go toward the costs of COLAs. The increased employee contribution was necessary to cover the costs of the amendments in the package deal (i.e., the highest three-year average salary and the CSRS benefit formula). This clarification was made repeatedly, both in meetings and in memoranda.

During this period, most states kept records of conversations with Manpower Administration personnel and their comments at meetings were recorded in minutes and transcripts. (Utah letters, May 6 and August 18, 1975, and Idaho letters, November 21, 1974, June 16, 1975 and February 23, 1976.) There is clear evidence that the overwhelming impression left on individuals in all six states was that budgets at that time (1975-1976) would not permit adoption of a COLA and that, when the fiscal picture improved, such provisions would be acceptable. In fact, in a memorandum on May 3, 1977 to the Seattle Regional Office, the

Manpower Administration disapproved Idaho's third COLA proposal. They stated:

> "We have since that time (after adoption of CSRS package deal) advised the states that when funds become available, the increase provision would be considered. The budget circumstances have not improved; hence, our policy has not changed."

There is clear evidence that Manpower Administration personnel were growing increasingly distressed over the pressure from individual states and from the group of six states to obtain approval for a COLA feature. One example of many occurred in an internal Manpower Administration memorandum regarding Idaho's continuing efforts to secure a COLA. Part of that memo states:

> "This request is a part of a continuing effort by Mr. Garrett to obtain ever-increasing benefits for employees of the agency. He is persistent in his efforts and he uses every opportunity to pressure us into granting his requests. He has sought Congressional support in his efforts and has even turned to Mr. Robert C. Goodwin, former Administrator of the Bureau of Employment Security for assistance."

(Memo, March 6, 1975; also see Exhibit 5.)

Harding and Garrett both actively pursued COLA provisions until they retired from active SESA service. The other states also pressed for COLAs during this period, primarily when federal staff attended their retirement committee meetings. The six states convened a meeting in April 1977, requesting attendance of federal staff. The states planned to join forces to actively seek adoption of a COLA for their retirement plans (Field Report, April 14, 1977). In 1977, President Carter took office and the Manpower Administration was succeeded by the Employment and Training Administration (ETA), which orchestrated a significant shift in policy.

Application of the A-87 Cost Rules

In mid-1978, a meeting of the ETA staff and representatives from the six independent retirement plan states was called.

Quite unexpectedly, ETA announced its intention to implement the cost rules outlined in OMB Circular A-87. This circular spelled out allowable and unallowable costs in state and local government programs assisted by federal grants. These rules were to replace Part IV of the ES Manual.

ETA explained that its interpretation of these cost rules was that the six independent retirement plans were not in compliance with the meaning of A-87. Therefore, ETA proposed that the six independent plans be merged with the statewide systems in each state. Costs for benefits in excess of those under the statewide plans would not be funded by federal grant funds. The states were presented with ETA's proposal and asked to review and comment on the plan. (For example, Oklahoma letters of June 9, and September 12, 1978.)

The responses of the six states delineated the problems involved in merging the independent retirement plans with the statewide plans. Among the most prevalent arguments offered by the six states were:

- Merger would seriously change the benefits available to the eligible employees and would constitute a breach of contract between the SESA and its employees;
- Merger would be technically impossible because of differences in the two plans; and
- State laws explicitly prohibited the participation of SESA employees in the statewide system.

Additional specific arguments relevant to each state were also offered. The threat to the independent plans was perceived by the six states to be severe, and this resulted in serious efforts on their part to organize opposition to the change in ETA policy. During this period, it is clear that there was considerable confusion about the implications of ETA's proposal. For example, all six states understood that the proposal required merger of the statewide and SESA plans. Individuals in ETA insisted that the proposal simply would not provide grant funds for costs above those paid for comparable benefits in the statewide system (Idaho Memo, August 8, 1978; and Exhibit 6). Labor Secretary Marshall responded to an inquiry by Senator Church (D-ID) that the solution to the problem regarding the COLA was to merge the SESA and statewide plans, pointing out that Idaho's statewide plan had a COLA provision (Idaho letter, May 22, 1978).

Through the remainder of 1978 and into 1979, ETA continued to consider approaches which would permit implementation of the A-87 cost rules without creating serious disruptions of the independent plans. During this same period, Idaho, under the direction of Glenn Nichols, was leading the effort to win a COLA provision for the six state plan. (Letters of March 22, 1979, August 20, 1979.) With input from the six states and considerable exchange of information between Congressional members and Secretary Marshall, the decision to sue ETA for the promised COLA was reached (Idaho letter, March 22, 1979).

The Compromise

In an undated handwritten memorandum prepared by ETA (circa August 7, 1979), a new compromise approach to the competing issues of the COLA and the A-87 cost rules was proposed. The memorandum began with the assertion that "cost-of-living will be provided for plans," and then outlined a compromise position regarding the merger of the independent and statewide plans. Under the proposal, the independent retirement plans would be closed to new hires on a date certain. (Original goal for this closure was October 1, 1980.) All employees on board before the closing date would remain under the independent SESA plan, and the plan would be supported until all eligible members had received their benefits. All new employees hired after that date would become members of the statewide retirement plan. OMB agreed to this compromise (Idaho federal file, handwritten notes, August 7, 1979).

ETA officials, in particular Jim Walker and Joe Thompson, met with Nichols early in August 1979 to discuss the compromise. Nichols then announced the Walker Compromise, as the proposal came to be called, to the other five independent retirement plan states in a letter dated August 20, 1979. Walker followed the Nichols letter with a memorandum to the six states that outlined the background, the compromise plan, and the schedule ETA recommended for implementation of the compromise. (See Exhibit 7.)

Between late 1979 and 1981, the compromise offered by Walker was subject to further negotiations between ETA and the six states. At the ICESA annual meeting on September 10, 1979, ETA reached agreement with the six states. The most important issue, the COLA, was settled by February 1980. The six states negotiated for and won a military service credit amendment as well (See Exhibits 8 and 9). As a part of the negotiation process, states were required to develop proposed amendments to their retirement plans, proposed contracts, estimates of the costs of the two new provisions, estimates of the additional unfunded liabilities, and any required modifications to their enabling legislation. Most states moved forward with all these requirements and implemented the agreements. Nebraska decided to wait until final publication of the rules governing fringe benefits plans before acting to close the Nebraska plan.

Publication of Proposed Rules Implementing A-87

On January 19, 1981, ETA published proposed rules to implement the A-87 cost rules. Sections on both retirement costs and on fringe benefits were included in these regulations, which came to be known as "midnight regs" since they were published in the closing days of the Carter administration. Both the retirement and the fringe benefits sections included language which was clearly inconsistent with the agreements between the six states and ETA. After considerable effort on the part of all six states and ICESA, the proposed rules were withdrawn for revision (February 1981). An ICESA Task Force made up of representatives from each of the six states was formed in March 1981.

The ICESA Task Force worked with ETA staff to revise the proposed rules in a manner that would be acceptable to both ETA and the six states. Additionally, other issues of importance to all states were considered. ICESA recommendations were adopted by that organization at its annual meeting in September 1981. (ICESA package, August 7, 1981.) Subsequently, no effort to republish the proposed rules was made due to passage of the Job Training Partnership Act (JTPA) and its amendments to the Wagner-Peyser Act. Finally, as a part of JTPA implementation during the summer of 1982, the Department of Labor published the proposed Employment Service regulations which incorporated the major provisions agreed to by ETA and the six states with independent retirement plans.

Analysis of the new proposed rules and the ICESA proposal made earlier reveals that there are differences in the approach but the intent is the same.

The Unfunded Liabilities

When the COLA and military credit provisions were adopted and implemented in each of the six states, new unfunded liabilities were created. These were in addition to the accrued unfunded liabilities that had resulted from earlier actions, primarily the benefit improvements made in the package deal. According to letters from the states' consulting actuaries, there were several methods available to deal with these unfunded liabilities (Letter, December 21, 1979).

As indicated in an ETA memorandum to the Denver Regional Office (July 14, 1981), the ETA Actuary was working directly with the insurance carriers to establish amortization schedules for the unfunded liabilities. (See Exhibits 10 and 11.) The proposed schedule to retire the unfunded liabilities was set at thirty years. (The federal records of the independent retirement plans of the six agencies are incomplete from 1981 on due to the retirement of the ETA Actuary who had maintained these files during those last few years.)

The Utah file contains several pieces of correspondence concerning the unfunded liability issue. On July 27, 1982, Barclay Gardner inquired about securing grant funds to cover the costs of the unfunded liabilities, indicating that other funds were being quickly drained. (See Exhibit 12.) In response, ETA stated:

> "Let me assure you from the outset that it is the Employment and Training Administration's (ETA) basic position to honor to the extent possible previous verbal commitments made on the cost-of-living and the prior military service provisions of the Independent Retirement Systems."

The letter goes on to request that Gardner submit a Supplemental Budget Request (SBR) for funds to cover the retroactive features of the COLA and military credit provisions. (See Exhibit 13.)

Impact of the ES Amendments

The modification in the JTPA amendments of 1982 to the Wagner-Peyser Act, which established a statutory allocation formula, created two difficulties for the independent retirement plan states. First, the formula utilizes the Civilian Labor Force (CLF) and the unemployment data to determine the state's share of funds. State experiencing higher rates of unemployment with a higher proportion of the CLF, will receive a larger share of the ES allocation. All the independent retirement plan states tend to be rural, low-population states with generally lower unemployment rates statewide. Thus, these states must expect to receive less ES funding over time, resulting in personnel cutbacks unless the total amount of ES funding is increased.

The second difficulty created by the new allocation formula is that it provides an amount of funds independent of the number of positions these funds will finance. In the past, ES allocations were determined by dividing a total number of positions among the states and then paying off on each state's positions using the actual salary and benefits costs in that state to determine the total dollars each state received. This method continues to be used for allocating unemployment insurance administrative resources. With the new ES allocation formula, each state will receive a sum and must determine for itself how many positions this sum will finance. In cases where ES personnel and overhead costs are increasing, but the ES allocation is decreasing, the state will probably be forced to maintain fewer ES positions.

The six states face two major problems. First, ES resources began shrinking after 1981, immediately following the adoption of the COLA and military credit provisions. The unfunded liabilities owed by the six states are amortized on a 30 year repayment schedule, with equal payments due each year. As ES staff positions decreased in 1982 and 1983, there were less personnel benefit funds allocated for costs of retirement plan. Second, with the implementation of the new resource allocation formula for 1984, additional reductions in resources are predictable. The fringe benefit cost rate for each agency with a fixed annual payment will increase yearly. Thus, a growing proportion of the scarce ES resources will be devoted to fringe benefit costs, rather than to supporting personnel to serve ES clients.

CHAPTER SEVEN

CONCLUSIONS

Reviewing both the federal and state files provides valuable insights into the nature of the negotiations between the six states and the federal partner. Some observations which arise are:

- The federal partner initiated and encouraged a group of SESAs without retirement plans available for their employees to seek legislative authority and develop retirement plans.

- With the first proposal, a learning process began since neither the state nor federal partners were familiar with the specifics of retirement plans. The states that were early submitters suffered more from the lack of understanding as to how to go about developing such independent plans. The last states to propose independent plans negotiated with a better-informed, experienced federal partner.
- Similarly, whenever new amendments or new events developed, both the state and federal partners had to learn how to manage the particular situation as it developed. When a policy change occurred, it was consistently applied until the next policy change came about.
- The federal position regarding amendments to the independent plans was tied to justifying the costs and benefits as reasonable and fair. The methods for measuring reasonableness and fairness almost always entailed comparisons to other plans. First, comparisons were made to two other agency plans within each state, then to the statewide plans, then to the Civil Service Retirement System. The federal approach held that the costs and benefits in the independent plans should not exceed the plan of comparison.
- Amortization was used regularly to retire unfunded liabilities created by an improvement. This practice started from the beginning of the independent retirement plans when the unfunded liabilties arising from purchase of prior service annuities were paid off using a ten-year amortization schedule (except Idaho). Later, the unfunded liabilities brought about by the package deal required twenty-year repayment schedules; and last, the COLA military service credit resulted in establishment of a thirty-year amortization schedule.
- From the 1950s through 1973, one individual, Mr. Robert C. Goodwin, the Director of BES, made the final decisions regarding the independent retirement plans. Subsequently, many individuals became involved with these decisions, and changing administrations embraced different approaches to the independent plans.

Analysis of the Policy Steps Leading to the COLA Provisions

The event that ultimately led to the adoption of the COLA provisions in each plan was the issuance in 1961 of the Goldberg

Doctrine. It was this policy which was called upon by Goodwin during consideration of the list of provisions (leading to the package deal) that brought the independent plans in line with CSRS. To paraphrase, the Goldberg Doctrine stated that granted funds could be used for fringe benefits when:

- similar benefits, in kind and amount, are provided by the federal government to its employees; and
- cost per employee does not exceed the cost which the federal government bears for its employees.

When this policy was invoked in 1969 to approve the Utah amendments (which later were incorporated in the package deal), the rule of comparability was also upgraded, making the plan of comparison the CSRS plan. With this new policy in place, it is not difficult to see why the SESAs sought a COLA provision in their plans. The CSRS plan had featured a COLA provision for many years, and the states believed that they were entitled to include such a feature in their plans. The impact of high inflation on the cost of living and the existence of COLA features in most statewide retirement systems also motivated the six states to seek COLAs in the independent retirement plans.

By the late 1970s, all the states had adopted the amendments included in the package deal, including an increased employee contribution rate. Each state was interested in adopting a COLA provision but was always told that the COLA could not be considered until more funds were available to meet employer costs. The clear understanding of the states, based on both their correspondence and conversations, was that there were no policy objections to a COLA, only financial limitations.

The ETA position is not as clear as the state understanding. For example, when the ETA Actuary reported back to his superiors about state meetings where the COLA had been discussed, his reports indicated that the subject had been raised and that the state staff had been informed that a COLA provision would be disapproved. Conversely, state accounts of the same meeting report that the ETA Actuary stated that COLAs would be considered when funds were available. Regional Office memoranda to the states disapproving COLA amendments stated that COLAs could be approved when funds were available. Secretary Marshall responded to Congressional inquiries regarding the feasibility of COLAs for the independent plans by stating such an improvement would make the independent plans superior to the statewide plans.

The events which actually broke the log jam regarding the COLA provisions arose from ETA's efforts to merge the independent plans with the statewide plans. This action on ETA's part threatened the benefits of a large number of vested employees and numerous annuitants. The reaction on the part of each of the six states was quick and potent. The environment became tense for both the federal and state partners. The compromise position, offering COLAs to the states in exchange for a gradual changeover to the statewide system, was a reasonable solution.

Providing COLAs to the independent plans was consistent with the rule of comparability to the CSRS plan. It, and the credit for military service were the last major provision needed in the independent plans to make them truly comparable to CSRS. Similarly, the gradual changeover to the statewide plan by placing new hires under its coverage protected the rights of annuitants and vested employees covered under the independent plans. No condition of employment or promise to the employees was disrupted.

The final compromise and agreements in 1980 brought the six states to comparability with CSRS. Similarly, the gradual changeover plan, moving new hires into the statewide retirement systems, solved the federal partner's need to bring the independent retirement states into compliance with A-87. From a policy perspective, all needs were met in an acceptable manner to the parties involved. This situation holds true today. No policy questions remain to be resolved between the parties. The states closed out their plans to new hires, and DoL approved the final improvements in benefits for the annuitants and employees in the closed plans and set forth a thirty-year schedule to amortize the increase in unfunded liability.

The only remaining question is one of implementing and continuing the final agreements until all liabilities have been funded. The continuation of the agreement could be in some jeopardy due to changes that have occurred since 1981. Funds to the agencies have been cut, resulting in reduced staff and increased earlier retirements which may increase the unfunded liability over time. The allocation formula for Wagner-Peyser funds has also been changed, leaving states in doubt as to their future grant awards.

While the future of federal funding for the on-going costs of the independent plans may be unclear, the history regarding past policies, past decisions to improve the systems, and subsequent funding arrangements are quite clear and have been documented.

EXHIBIT 1

In reply refer
to BSC

U. S. DEPARTMENT OF LABOR
Bureau of Employment Security
Washington 25, D. C.

General Administration Letter No. 422
May 21, 1958

TO: ALL STATE EMPLOYMENT SECURITY AGENCIES

SUBJECT: Fringe Benefits to Employees of Employment Security Agencies--
Personnel Transmittal No. 10

The attached "Summary of Employee Fringe Benefits Provided by Employment Security Agencies" has been compiled from replies to the questionnaire which was distributed with General Administration Letter No. 380, dated November 21, 1957.

The questionnaire asked what factors had prevented the adoption of employee benefits not provided and also what factors had prevented liberalization of those benefits. Analysis of the replies to these questions indicated that, because of the nature of most deterrents to adoption or liberalization of benefits, only State action could provide relief. In comparatively few instances was a Bureau policy or fiscal standard given as the reason for benefits not being provided. This would indicate that a State agency must work toward statewide action to get those benefits which it considers desirable.

The questionnaire replies did indicate that there are areas in which the Bureau might point out to an individual agency benefits which it might consider providing, even under existing limitations. Accordingly, we plan to consult with individual State agencies to improve employee benefit programs where such action appears appropriate.

The attached summary is a report of the data received in response to the questionnaire. No analysis has been made of the relative values of the various benefits. The dark blocks indicate benefits which are provided to employees of State employment security agencies.

Sincerely yours,

/s/ ROBERT C. GOODWIN

Robert C. Goodwin
Director

Attachment

SUMMARY OF
EMPLOYEE FRINGE BENEFITS
PROVIDED BY
EMPLOYMENT SECURITY
AGENCIES

	Credit Union	Compensatory Time for Overtime	OASI	Workmen's Compensation	Retirement	Voting Leave	Moving Costs on Transfer	Longevity Pay	Incentive Awards	Overtime at Regular Rates	Suggestion Awards	Cafeteria Service	Health Rooms or Services	Premium Costs for Group Insurance	Unemployment Insurance	Paid Maternity Leave	Meals During Overtime	Premium Overtime
Alabama	▨	▨	▨		▨	▨					▨	▨				▨		
Alaska	▨	▨	▨	▨	✓	▨	▨	▨						▨	▨			
Arizona	▨	▨		▨	▨	▨		▨	▨			▨		▨	▨	▨		
Arkansas	▨		▨			▨	▨	▨	▨	▨		▨						
California	▨	▨		▨			▨		▨	▨	▨	▨					▨	
Colorado	▨							▨								▨		
Connecticut		▨			▨	▨					▨	▨	▨	▨	▨		▨	
Delaware			▨		▨			▨		▨								
District of Columbia	▨	▨		▨	▨	▨		▨	▨				▨	▨	▨	▨		▨
Florida	▨	▨	▨	▨	▨	▨	▨		▨			▨	▨				▨	
Georgia	▨	▨	▨	▨	▨	▨	▨	▨	▨		▨	▨	▨					
Hawaii	▨	▨	▨	▨	▨			▨	▨		▨							
Idaho	▨	▨	▨	▨	✓	▨	▨				▨	▨						
Illinois	▨	▨		▨	▨	▨	▨					▨	▨					
Indiana	▨	▨	▨	▨	▨	▨					▨					▨		
Iowa	▨	▨	▨	▨	▨	▨						▨						
Kansas	▨	▨	▨		✓	▨	▨	▨										
Kentucky	▨	▨	▨	▨	▨	▨		▨				▨	▨		▨			
Louisiana	▨	▨	▨	▨	▨	▨	▨	▨	▨		▨							
Maine	▨	▨		▨	▨	▨	▨			▨				▨		▨		
Maryland	▨	▨	▨	▨	▨				▨			▨					▨	
Massachusetts	▨			▨	▨	▨		▨	▨	▨	▨		▨	▨			▨	▨
Michigan	▨	▨	▨	▨	▨	▨	▨	▨	▨	▨		▨	▨		▨			
Minnesota	▨	▨	▨	▨	▨	▨	▨	▨	▨	▨		▨	▨		▨			
Mississippi	▨	▨	▨	▨	▨	▨	▨	▨	▨								▨	▨
Missouri	▨	▨	▨		▨		▨		▨									
Montana	▨	▨	▨	▨	▨		▨	▨				▨						
Nebraska	▨	▨	▨	▨	✓	▨		▨										
Nevada	▨	▨		▨	▨	▨									▨			
New Hampshire	▨	▨	▨	▨	▨	▨	▨	▨	▨	▨	▨		▨		▨			
New Jersey	▨	▨	▨	▨	▨	▨			▨	▨	▨		▨	▨			▨	
New Mexico	▨	▨	▨		▨	▨	▨	▨						▨				
New York	▨	▨	▨	▨	▨	▨		▨	▨	▨	▨	▨	▨	▨	▨	▨	▨	
North Carolina	▨	▨	▨	▨	▨	▨			▨				▨		▨			
North Dakota	▨	▨	▨	▨	✓	▨	▨			▨	▨							
Ohio	▨	▨		▨	▨	▨		▨		▨		▨	▨					
Oklahoma	▨		▨		✓	▨	▨	▨								▨		
Oregon	▨	▨	▨	▨	▨	▨	▨				▨		▨		▨			▨
Pennsylvania	▨	▨	▨	▨	▨	▨				▨		▨	▨					
Rhode Island	▨	▨	▨	▨	▨			▨		▨	▨	▨			▨	▨	▨	▨
South Carolina	▨	▨	▨	▨	▨	▨	▨	▨					▨			▨		▨
South Dakota	▨	▨	▨	▨	✓	▨	▨		▨									
Tennessee	▨	▨	▨	▨	▨	▨	▨				▨			▨	▨			
Texas	▨	▨	▨		▨	▨			▨									
Utah	▨	▨	▨	▨	✓		▨	▨		▨	▨	▨		▨				
Vermont	▨	▨	▨	▨	▨	▨	▨			▨				▨				
Virginia	▨	▨	▨	▨	▨									▨				
Washington	▨	▨	▨	▨	▨	▨	▨		▨		▨							
West Virginia		▨	▨	▨	✓	▨										▨		
Wisconsin	▨	▨	▨	▨	▨	▨	▨				▨			▨	▨			
Wyoming	▨	▨	▨		▨	▨				▨								
Puerto Rico	▨	▨	▨	▨	▨	▨			▨	▨	▨			▨		▨		
Virgin Islands	▨	▨	▨	▨	✓	▨	▨											▨

January 1958

All States have provisions for annual, sick, military and court leave, and paid holidays, although the provisions vary considerably.

EXHIBIT 2

1050-1054 State Agency Participation in Group Insurance Plans

1050 Standard. Granted funds may be used for the payment of the State agency's proper share of the cost of protecting its employees through participation in group insurance type plans (e.g., retirement, life, health, and disability insurance) if the applicable plan meets the following conditions:

A. Mandatory State plan. The plan is authorized by a State statute requiring all or substantially all State agencies (including, for the purpose of this section, State departments) to participate therein, provided that:

1. The provisions of the plan with respect to types of coverage, eligibility, contributions, and benefits, are the same for employees of the State employment security agency as for employees of other State agencies.

2. The State employment security agency, as well as other State agencies, is required by law to pay the "employer" part of the cost of protecting its employees.

3. The rate of contribution required to finance the benefits under the plan is calculated on the same basis for the employment security agency as for other State agencies, or if it is calculated on a different basis where more than one basis is authorized under the law, the rate for the employment security agency is fair and reasonable as compared with the rate for other State agencies.

4. Contributions paid by the employment security agency to the State fund are used solely for the payment of benefits to employees entitled thereto, and in those cases where the law establishing the State fund so provides, for the agency's pro rata share of administrative costs relating to the operation of the plan.

5. Any separate charge made against the employment security agency for the cost of administering the plan is assessed on the same basis as that of other participating agencies or departments of the State.

B. Plan covering employment security agency. The plan is authorized by a statute which permits agencies to elect an independent plan where no statewide plan exists, provided that:

1. The plan is similar to those made available by the Federal Government to its employees.

2. The cost per employee to be paid from granted funds does not exceed the cost per employee which the Federal Government pays for similar benefits.

3. The plan is insured by a private insurance carrier which (a) is chartered under the law of any of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico,

(b) is licensed to operate within the jurisdiction in which the agency is located, (c) is financially sound, and (d) is selected through competitive bidding in accordance with the pertinent provisions of section 2562.

C. State agencies currently participating in a plan authorized under permissive legislation are encouraged to participate in the statewide plan, provided that:

1. Participation is authorized through legislative action, attorney general's opinion, or board or commission ruling.

2. Risks for which protection is available are similar.

3. There is no loss of credited service or employment in determining other benefits to which the employees may be entitled.

4. Accumulated benefits under a retirement plan are frozen for the benefit of the covered employees. Such freezing of benefits does not apply to the group contracts sold on a term insurance basis.

5. There is an effective election by a majority of the employees to participate therein.

NOTE: Any dividends or other similar credits resulting from participating in statewide plan or a plan funded through a private carrier shall be credited to the employment security agency's administration fund or credited against the next premium falling due under the contract.

EXHIBIT 3

Facsimile - Secretary Arthur Goldberg's Letter
July 14, 1961 - Poor Quality Copy Attached

Mrs Helen Peckler
President
American Federation of State, County
and Municipal Employees
AFL-CIO
54 West Randolph Street
Room 402
Chicago 1, Illinois

Dear Helen:

I regret that any misunderstanding arose concerning the availability of Title III funds to pay any part of the premium for hospitalization and medical care insurance provided for State employment security employees by Illinois Senate Bill 840.

I am informed by the Bureau of Employment Security that the provisions of Senate Bill 840 were reviewed carefully prior to its passage and that the State employment security agency was advised through the Chicago Regional Office, that, because the Bill was limited to State employees paid solely from Federal funds it did not meet the Bureau's State practice requirement.

The Department of Labor has followed the policy of treating employment security employees in the same manner as the State government treats its other employees. Thus, granted funds have been approved without question to pay for benefits for State employment security employees to the same extent that the State provides for its employees generally.

In the case of coverage under a State's Unemployment Compensation Law, granted funds may be used if the State legislature makes such coverage compulsory for all State employees or makes such coverage available to all State departments and agencies on an elective basis. We have considered that such action by the legislature established adequately the legislature's intent as to State practice.

As you requested, however we have reviewed our "State practice" policy in connection with Illinois Senate Bill 840 with the objective of approving the use of granted funds to pay for benefits for State employment security employees wherever such use can be justified by sound public policy. Our review has led us to the following conclusions:

1. We will continue to approve the use of granted funds to pay for benefits for State employment security employees whatever the State provides for other employees generally.

2. In the absence of "State practice," we will approve the use of granted funds to pay for benefits for State employment security employees if:

    (1) The benefits are authorized or required by the State legislature and approved by the Governor,

    (2) Similar benefits, in terms of kind and amount, are provided by the Federal government for its employees generally,

    (3) The cost per employee of the benefits to be borne from granted funds does not exceed the cost which the Federal government bears for similar benefits for its employees.

If Illinois develops a plan under Senate Bill 840 which meets these criteria, we will approve the use of granted funds to pay the State employment security agency's share of the cost.

Cordially,

Secretary of Labor

EXHIBIT 4

U. S. Department of Labor
Bureau of Employment Security
Washington 25, D. C.

Manual Transmittal Letter No. 789
November 14, 1961

TO: ALL STATE EMPLOYMENT SECURITY AGENCIES

SUBJECT: Part IV, Chapter 1000--State Agency Participation in Group Insurance Plans

The attached part IV Manual sections 1050-1052 supersede the present sections 1050 and 1051, State Retirement and Workmen's Compensation, and 1065, Group Insurance Coverage of State Agency Employees.

These sections have been completely rewritten and reorganized under a single standard. The major substantive changes are:

1. Section 1050. In the absence of statutory authorization under a mandatory or elective law, the employment security agency is permitted to participate in a plan similar to those made available by the Federal Government to its employees, generally; a more explicit distinction is made between mandatory group insurance plans and elective plans; and a clarification of effective election is made by requiring that the plan elected by the employment security agency be substantially similar to those elected by at least two other State agencies or groups.

2. Section 1051. A condition is added that plans which are not mandatory (set forth in section 1050 B and C) be insured by the State or by a private carrier to assure actuarial soundness. Section 2062, to which reference is made, identifies the appropriate section in the revised standard on procurement of equipment, supplies, and services, which will be released shortly.

The existing standards relating to Unemployment Insurance and Federal Old-Age, Survivors, and Disability Insurance coverage have not been included in the attached consolidated standard, because the conditions pertaining to group insurance plans are not applicable to those two types of coverage. UI and OASDI systems are governed by conditions prescribed by State or Federal law.

Sincerely yours,

Robt C. Goodwin

Robert C. Goodwin
Director

Attachment

INSTRUCTIONS FOR MANUAL MAINTENANCE:

Part IV

Remove and destroy		Insert	
Contents	R-12/23/58	Contents	R-11/3/61
Contents(2)	"	Contents(2)	"
1040-1042	R-11/21/55	1040-1041	"
1043-1051	8/16/48	1042-1043	"

Part IV

Remove and destroy		Insert	
1051-1061	R-1/22/51	1050	R-11/3/61
1065-1070	R-6/15/50	1050-1052	"
		1055-1057	"
		1060-1070	"

INDEX DELETIONS:

Fiscal Standards
    Workmen's compensation, IV-1050(so)

Workmen's Compensation
    Use of Federal funds, IV-1050-1051(so)

INDEX ENTRIES:

Fiscal Standards
    Group insurance, IV-1050(so) - change

Government Employees, State
    Group insurance, coverage, IV-1050-1054(so) - change

Insurance
    Group insurance, expenditure of funds, IV-1050-1054(so) - change
    Retirement, IV-1050-1052(so) - change

Personnel Administration
    Coverage, group insurance, State employees, IV-1050-1054(so) - change
    Retirement, IV-1050-1052(so) - change

U. S. DEPARTMENT OF LABOR
Bureau of Employment Security
Washington 25, D. C.

Fiscal Letter No. 489
December 4, 1961

TO: ALL STATE EMPLOYMENT SECURITY AGENCIES

SUBJECT: Guide to Participation in a Group Insurance Plan Covering an Employment Security Agency Only

This letter will serve as a preliminary guide to State agencies which wish to avail themselves of the provisions of section 1050 C, part IV of the Manual, relating to participation in a single agency group insurance plan. We should like to emphasize that State agencies which plan to obtain the necessary statutory authorization should seek enabling legislation which is broad in character rather than specific as to benefit specification or other provisions of coverage. While the Bureau will furnish technical assistance in implementing the authorization, the information contained in this letter and its enclosures will be helpful during the exploratory phases.

Federal types of plans, to which a single agency plan must be similar under the above-mentioned section, provide health insurance, life insurance, and retirement benefits. Because of the multiplicity and diversity of Federal health insurance plans, the information regarding these plans is presented in greater detail.

Health Insurance Benefits

A. The plan may provide, pay for, or reimburse expenses for the following types of benefits: hospital care; surgical or medical diagnosis, care, and treatment; drugs and medicines; remedial care; other medical supplies and services; or any combination of these. Granted funds may not be used for income protection, loss of pay, medical expense rider to auto insurance, or any other coverages than those specified above.

B. The plan may be obtained through an insurance policy or contract, medical or hospital service arrangement, membership or subscription contract, or similar agreement provided by a carrier for a stated periodic premium or subscription charge.

C. The plan may be a service benefit, indemnity benefit, or either group-practice prepayment or individual-practice prepayment type of plan.

D. Plans referred to in B and C above may be sponsored by employee organizations.

E. Each eligible employee must be given an opportunity to participate in a plan, although the State agency may offer its employees a choice of plans.

F. The annual contribution to be borne from granted funds under any plan shall be limited as follows:

1. For all enrolled employees, except those for whom contributions are prescribed by paragraph 2 below:

a. An employee enrolled for self alone	$33.80
b. An employee enrolled for self and family	81.12
c. A female employee enrolled for self and a family which includes a nondependent husband	47.32

2. For employees enrolled in a plan for which the total enrollment charge is less than twice the appropriate contribution listed in paragraph 1 above:

a. An employee enrolled for self alone	50% of the enrollment charge
b. An employee enrolled for self and family	50% of the enrollment charge
c. A female employee enrolled for self and a family which includes a nondependent husband	30% of the enrollment charge

Brochures illustrating types of plans offered to Federal employees are enclosed. Information about other plans, particularly those in effect in your geographic area, may be obtained from the nearest regional office of the United States Civil Service Commission.

Life Insurance Benefits

Since life insurance protection for Federal employees is available in a single plan only, the enclosed Federal Life Insurance Certificate should provide sufficient information for preliminary exploration.

Retirement Benefits

The Federal Civil Service Retirement System provides retirement, disability, and survivorship benefits. Although these benefits are made available to Federal employees in a single plan, each of these benefits may be provided in a separate plan or combined with other types of benefit plans such as life insurance. A brief description of the Federal retirement program is contained in the enclosed leaflet, Annuity Benefits Under the Civil Service Retirement Act.

Sincerely yours,

Robt C. Goodwin

Robert C. Goodwin
Director

Enclosures (6) (one copy of each)

Government-Wide Service Benefit Plan
Government-Wide Indemnity Benefit Plan
AFGE Health Benefit Plan
Group Health Association
Federal Employees' Group Life Insurance Certificate
Annuity Benefits Under the Civil Service Retirement Act

EXHIBIT 5

3/11/75

MSCS

Request from the Idaho Agency Per Letter from Fred Garrett

Ben Burdetsky

This is a brief note to acquaint you with some of the facts surrounding the request from Mr. Garrett.

This request is a part of a continuing effort by Mr. Garrett to obtain ever increasing benefits for employees of the agency. He is persistent in his efforts and he uses every opportunity to pressure us into granting his requests. He has sought congressional support in his efforts and has even turned to Mr. Robert C. Goodwin, former Administrator of the Bureau of Employment Security for assistance.

There are five other State agencies which have independent retirement plans similar to the Idaho plan. Our policy has been to gradually update these plans so that they are at least comparable to the Civil Service plan. Whatever is approved for one is approved for all six States: Idaho, Nebraska, North Dakota, Oklahoma, South Dakota and Utah.

Currently we are paying off unfunded liabilities of $31,315,994 accrued under these plans. These liabilities resulted from an update of the plans effective in 1971. To approve a cost-of-living increase provision for these plans now would substantially increase the liability at a time when sufficient funds are not available for this purpose.

As provided in our fiscal standards, we will not provide benefits to State agency employees which are greater than those benefits made available to Federal civil service employees. An examination of benefits now available to State agency employees reveals that the retirement plan benefits coupled with social security benefits slightly exceed civil service benefits to Federal employees. Federal employees are not covered by social security.

These agencies were advised in 1974 that the Manpower Administration would approve some improvements to the plans so long as no additional unfunded accrued liabilities were created. The benefits mentioned in his letter represent the extent to which we can improve the plans without creating additional liabilities. Mr. Garrett, of course, is not satisfied. He wants more.

EXHIBIT 6

AUG 18 1978

MEMORANDUM FOR: JESS C. RAMAKER
Regional Administrator
Seattle

FROM: LAWRENCE W. ROGERS
Administrator
Field Operations

SUBJECT: States with Separate Employment Security
Retirement Plans

Please express our thanks to the agencies in your region for complying with our requests for expressing their views as to why they should retain their independent retirement plans. We are giving consideration to the narrative statements, however, it is difficult to make an actuarial judgement in the absence of cost estimates to compare one system with another.

The paragraph, in the proposed regulations, 660.2-2(12)(7) to which most of the comments relate, provides that, "after September 30, 1982, the amount (if any) by which fringe benefit costs determined under (iii) exceed the amount which would have been allowable under (ii) is unallowable." This only implies that in accordance with Federal Management Circular 74-4, ETA could no longer provide the agency costs of personnel benefits which exceed the cost of participating in the statewide system. No abandonment of the present plan is required. To that end, in order for us to make a realistic judgement, we need copies of the plans' latest Valuation Report of, both, the agencies' plan and the statewide plan. These reports, if complete, will furnish all of the necessary information to make a comparative analysis. Once we can access the similarities and relative cost, I believe we can settle this issue.

Please request the agencies to submit these reports.

TSCS/JTThompson:bs/8/14/78
4208 PEB, x66406

EXHIBIT 7

Mr. Walter Rapp
Executive Director
Oklahoma Employment Security Commission
Will Rogers Memorial Office Building
Oklahoma City, Oklahoma 73105

Dear Mr. Rapp:

Please find enclosed a paper on retirement plans for our meeting on September 17, 1979. This paper reflects our current thinking on how the special SESA retirement plans will be dealt with in the proposed SESA allowable costs regulations. It also discusses what State and Federal implementing actions will be needed. Finally, it sets out issues which need further thought, including the proper treatment of other fringe benefits provided under special SESA group insurance plans.

I plan to have a draft reg on the retirement issue available for discussion at our meeting.

Sincerely,

T. JAMES WALKER
Administrator
Administration and Management

Enclosure

SESA Retirement Systems Implementation Plans

I Background

In 1959, six States (Idaho, Nebraska, North Dakota, Oklahoma, South Dakota, and Utah) sought approval from the Bureau of Employment Security to develop and adopt retirement plan coverage for their employees. No State-wide retirement plans existed in these States at this time. The Bureau, in an effort to restrict the plans to a measurable norm, held that approvals would be granted if it could be demonstrated that the plans adopted by the employment security agencies were comparable to plans already adopted by two or more agencies or departments of the respective States.

Inherent in this policy was the unwritten provision that ES agencies could provide no greater level of benefits to their employees than employees of other State departments enjoyed. Administratively, this was a good policy to supervise, since, whenever the ES agencies requested improvements in their plans, it would have to be shown that equivalent improvements were adopted by the other State departments or agencies.

In 1961, some of the States adopted plans for all State employees. Because the level of benefits provided by the State-wide plans was somewhat less than what was being provided by the ES plans, the ES agencies sought exemption through legislative action, and in some cases, through an opinion by the States' Attorneys General. The Bureau of Employment Security recognized the superiority of the ES plans over the State-wide plans and encouraged the agencies to hold on to their plans.

Various changes and improvements have been made in these plans since 1961. However, it has been clear since FMC 74-4 was introduced in 1968 that these separate State retirement plans were not in accordance with that circular. When it became necessary to publish regulations to replace the outdated Employment Security Manual, it was obvious that the separate State ES retirement systems would have to be changed. Several discussions have been held with the six States with separate retirement systems since it was announced that changes would have to be made.

In August of 1979 a meeting was held with OMB. OMB agreed to consider a gradual changeover plan. In essence the plan provides that as of a given date, probably October 1, 1980, DOL would no longer fund costs over those of the State-wide systems for new employees. Employees under the existing separate retirement systems would be allowed to continue under the present plans. Thus the existing systems would disappear over a period of time.

Following is, first, a schedule of Federal actions to be taken; second, a schedule of suggested State actions to be taken; and third, a list of unresolved issues.

II SCHEDULE OF FEDERAL ACTIONS

DATE	ACTION TAKEN OR TO BE TAKEN
August, 1979	ETA met with OMB on six State retirement plans. OMB tentatively agreed to consider continuing the six State plans under the Federal Standard so long as all new hires came under State-wide retirement systems.
September, 1979	Administrator of OAM to meet with Directors of the six State agencies to discuss latest ETA proposal on their retirement plans.
September, 1979	ETA proposed regulation on the six retirement plans redrafted to reflect changes suggested by the agency directors which ETA accepts.
September, 1979	ETA to meet with Solicitor of Labor (SOL) to resolve differences on draft allowable cost regulations prior to publication as proposed rules in the Federal Register. Topics to be discussed include changes to

	provisions concerning six State retirement plans and other changes to fringe benefits provisions.
October, 1979	Agreement with SOL on proposed allowable cost regulations.
November, 1979	Publication of proposed allowable cost regulations in the Federal Register.
December, 1979	Hearings, if necessary, on proposed allowable cost regulations.
January, 1980	Expiration of comment period on proposed allowable cost regulations.
March, 1980	Publication of final allowable cost regulations.
March, 1980	ETA notification to SESAs to initiate action where necessary to obtain legislative authorization for participation of SESA employees in State-wide systems.
October, 1980	Effective date of retirement provisions of allowable cost regulations - RA's may extend time for requiring all new hires to join State-wide retirement system to 60th day after end of next session of legislature.

III Necessary State Actions

Timing	Recommended State Actions
Prior to final publication of Regulations	Consult informally with legislative leaders, State Attorney General, State Retirement Boards, etc., on steps necessary to implement changes. These will vary from State to State.
After final publication and/or after effective date of implementation	Obtain repeal of present operating authority
	Obtain new authority for inclusion under State-wide plans.
	After new authority is obtained work out necessary steps with State Retirement Board, etc., to include new hires in State-wide program so that no one goes into present independent plans. If authority can not be obtained by the effective date of implementation a short extension may be requested of Regional Administrator.

	After new authority is obtained request from the private carriers amendments to the current plans to freeze participation in current plans. Submit copies of amendments to DOL Regional Office for review.
	After new authority is obtained submit copies of such authority to DOL Regional Office for review.
As part of 1981 PBP submittal	Prepare and submit budgets to DOL Regional Office that show separate costs of old and new plans.

IV Issues Still to be Resolved

The preceding discussion has dealt with proposed changes in the SESA retirement systems in the six States which have their own plans. Other problems concerning fringe benefit costs which have not been finally resolved include:

a) cost of living provisions applicable to present retirement plans in the 6 States;

b) funding of other fringe benefit costs in all States where different benefits are available to SESA employees than those available under a State-wide system; and,

c) changes in State laws which may be necessary to provide coverage to SESA employees under revised Federal funding policy.

Cost Of Living Issue

Options presently under discussion are to tie pension benefits available to employees of the 6 States to the Federal escalator provisions or to tie them to the escalator provisions under the State-wide plans. At present State COL escalators tend to have maximums whereas the Civil Service System is open-ended. Another related cost of living problem is retroactivity since cost of living increases have not been provided in these 6 States in the past.

Funding Other Fringe Benefit Cost

Over 20 SESA's enjoy group insurance benefits such as life, health, accident, disability, and other forms of insurance which differ from and are more liberal than similar coverages under a State-wide plan. These benefits are also subject to FMC 74-4. They are generally available on a term basis and thus do not have the same problems as are involved in the retirement systems changes. The differential in costs also usually is not as big as in the retirement area.

Changes In State Laws

Every one of the special retirement and other group insurance benefit plans available to SESA employees but not to other State employees pose problems of obtaining State authorization for change. This issue is complicated by the fact that in some cases, legislative action is necessary but in other, existing laws which authorize special benefit plans for SESA employees do not preclude their membership in plans open to other State government employees. Thus, an authoritative legal opinion must be obtained from each of the States that legislation is or is not required. The next step is giving the States an adequate opportunity to change their laws if they intend to cover SESA employees under State-wide systems. The last step is funding at the State-wide rate. It is possible that some States will continue more liberal benefits for SESA employees than for other State employees; in which case, non-Federal resources will have to be provided to fund the difference.

EXHIBIT 8

MEMORANDUM FOR: ~~RICHARD G. HISKINS~~
Regional Administrator
Denver

FROM: T. JAMES WALKER
Administrator
Administration and Management

SUBJECT: Utah Retirement Plan Amendments

This is to confirm a telephone conversation between Mr. Robert Harden of your office and Mr. Joseph T. Thompson of my staff.

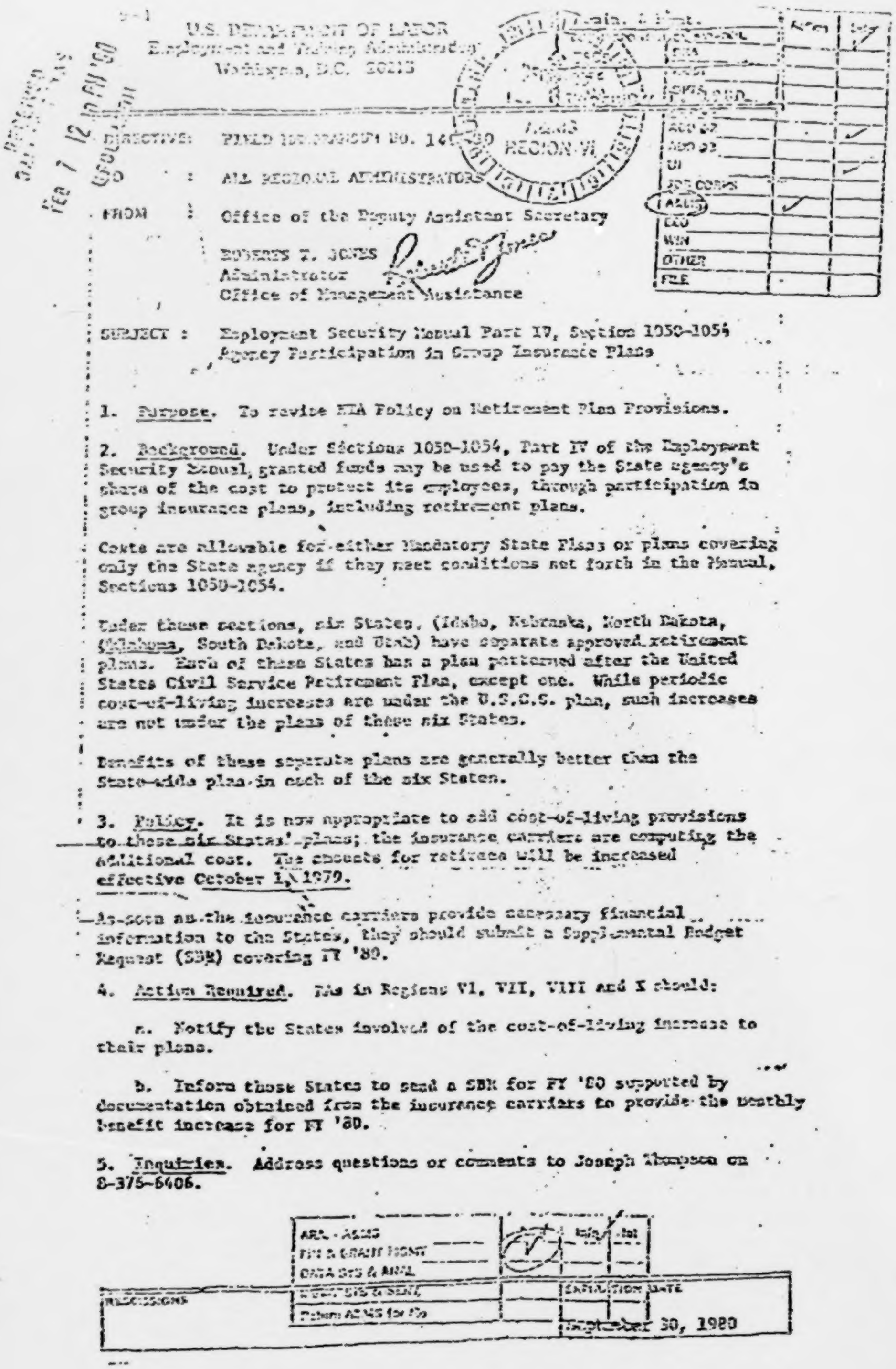
Our memorandum dated October 23, 1980, gave tentative approval to the agency's proposed Amendment No. XIII incorporating the cost-of-living and prior military service provisions in its plan. Final approval was contingent upon the agency's complying with the October memorandum. Please advise the agency that final approval is now given.

With respect to the transfer of funds from the Purchase Payment Fund to purchase the cost-of-living benefits, Mr. Thompson was authorized to negotiate with the Travelers Insurance Company for funding the cost of the amendments over a period of thirty (30) years. It was agreed that this method of transfer and amortizing the cost of the amendments over the thirty (30) year period was satisfactory to ETA and the Travelers which incorporated a reduction in annuity rates from rates previously used under the contract. A letter from Travelers dated October 7, 1980, confirms the agreement reached.

Should further questions arise regarding the issuance of annuity certificates and the funding schedule, the agency should contact The Travelers Insurance Company.

XXXXXXXXX
TSCS:JTThompson:bs/5/4/81
4302 PHB, x66414

EXHIBIT 9



9-1

U.S. DEPARTMENT OF LABOR
Employment and Training Administration
Washington, D.C. 20213

FEB 7 12 10 AM '80

REGION VI

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DIRECTIVE: FIELD MEMORANDUM NO. 140-80

TO : ALL REGIONAL ADMINISTRATORS

FROM : Office of the Deputy Assistant Secretary

ROBERTS T. JONES
Administrator
Office of Management Assistance

SUBJECT : Employment Security Manual Part IV, Section 1050-1054
Agency Participation in Group Insurance Plans

1. Purpose. To revise ETA Policy on Retirement Plan Provisions.

2. Background. Under Sections 1050-1054, Part IV of the Employment Security Manual, granted funds may be used to pay the State agency's share of the cost to protect its employees, through participation in group insurance plans, including retirement plans.

Costs are allowable for either Mandatory State Plans or plans covering only the State agency if they meet conditions set forth in the Manual, Sections 1050-1054.

Under these sections, six States. (Idaho, Nebraska, North Dakota, Oklahoma, South Dakota, and Utah) have separate approved retirement plans. Each of these States has a plan patterned after the United States Civil Service Retirement Plan, except one. While periodic cost-of-living increases are under the U.S.C.S. plan, such increases are not under the plans of these six States.

Benefits of these separate plans are generally better than the State-wide plan in each of the six States.

3. Policy. It is now appropriate to add cost-of-living provisions to these six States' plans; the insurance carriers are computing the additional cost. The amounts for retirees will be increased effective October 1, 1979.

As soon as the insurance carriers provide necessary financial information to the States, they should submit a Supplemental Budget Request (SBR) covering FY '80.

4. Action Required. RAs in Regions VI, VII, VIII and X should:

a. Notify the States involved of the cost-of-living increase to their plans.

b. Inform those States to send a SBR for FY '80 supported by documentation obtained from the insurance carriers to provide the monthly benefit increase for FY '80.

5. Inquiries. Address questions or comments to Joseph Thompson on 8-375-6406.

ARA - AEMS	✓		
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RESCISSIONS

EXPIRATION DATE
September 30, 1980

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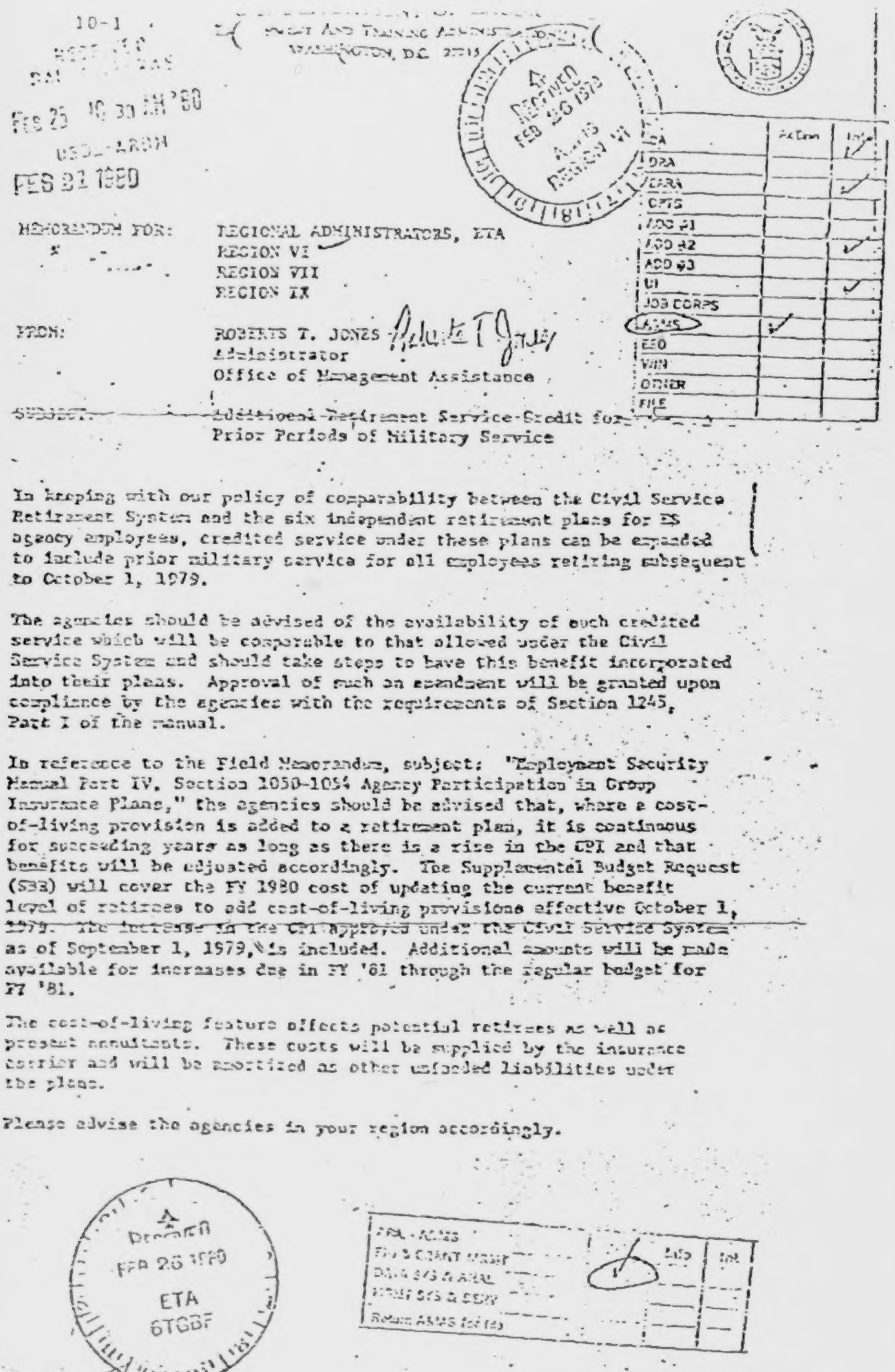
EXHIBIT 10



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U.S. DEPARTMENT OF LABOR
Employment and Training Administration
Washington, D.C. 20213

RECEIVED FEB 26 1980 REGION VI

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MEMORANDUM FOR: REGIONAL ADMINISTRATORS, ETA
REGION VI
REGION VII
REGION IX

FROM: ROBERTS T. JONES Roberts T. Jones
Administrator
Office of Management Assistance

SUBJECT: Additional Retirement Service Credit for Prior Periods of Military Service

In keeping with our policy of comparability between the Civil Service Retirement System and the six independent retirement plans for ES agency employees, credited service under these plans can be expanded to include prior military service for all employees retiring subsequent to October 1, 1979.

The agencies should be advised of the availability of such credited service which will be comparable to that allowed under the Civil Service System and should take steps to have this benefit incorporated into their plans. Approval of such an amendment will be granted upon compliance by the agencies with the requirements of Section 1245, Part I of the manual.

In reference to the Field Memorandum, subject: "Employment Security Manual Part IV, Section 1050-1054 Agency Participation in Group Insurance Plans," the agencies should be advised that, where a cost-of-living provision is added to a retirement plan, it is continuous for succeeding years as long as there is a rise in the CPI and that benefits will be adjusted accordingly. The Supplemental Budget Request (SBR) will cover the FY 1980 cost of updating the current benefit level of retirees to add cost-of-living provisions effective October 1, 1979. The increase in the CPI approved under the Civil Service System as of September 1, 1979, is included. Additional amounts will be made available for increases due in FY '81 through the regular budget for FY '81.

The cost-of-living feature affects potential retirees as well as present annuitants. These costs will be supplied by the insurance carrier and will be amortized as other unfunded liabilities under the plans.

Please advise the agencies in your region accordingly.

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EXHIBIT 11

JUL 14 1981

MEMORANDUM FOR: FLOYD E. EDWARDS
Acting Regional Administrator
Denver

FROM: T. JAMES WALKER
Administrator
Administration and Management

SUBJECT: North Dakota and South Dakota - Retirement Plan Amendments

Our memorandum dated September 10, 1980, gave final approval to the agency's proposed amendments incorporating the cost-of-living and prior military service provisions in its plan with an effective date of October 1, 1979.

Mr. Thompson, of my staff, has had several discussions with the insurance carriers of the independent plans regarding the development and amortization of the unfunded actuarial liabilities created by these provisions. It has been agreed that the transfer of funds from the Purchase Payment Fund to fully purchase these benefits and subsequentially amortize the liabilities over a period of thirty (30) years is satisfactory to ETA and the carriers. Through this method, the companies agreed to value all benefits with lower annuity rates than those incorporated in the contract. A letter to the North Dakota and South Dakota Employment Security Commission from The Travelers confirms this agreement.

Now that all amendments are in place with a predictable base for determining the agency's obligation to the insurance company, except for the normal cost, we are anxious that The Travelers will, through the use of the reduced annuity rates, advise us as to the total of the unfunded actuarial liabilities amortized over a thirty year period beginning October 1, 1980.

Please request the agency to obtain a valuation of the plan so that we may have these figures for our future budget outlay.

TSCS/JThompson/bs/6/18/81
Re-typed:jam6/24/81/7/8/81
cc: Walker(2), Sawyer, Myers, Thompson, Official File

EXHIBIT 12

[illegible]

July 28, 1982

T. James Walker, Administrator
Administration & Regional Management
U. S. Department of Labor
Employment & Training Administration
601 D Street, N.W.
Washington, D.C. 20213

Dear Jim:

Attached are two letters relating to the retirement plans of North Dakota, South Dakota, Nebraska, Oklahoma, Idaho, and Utah. I am sending copies of these to all of the Federal people who were present at either the meeting in New Orleans in September of 1979 or in Denver in November of the same year where final verbal approval was given to adding the Cost of Living feature to these retirement programs and where the states agreed to enroll new agency employees in their regular state retirement programs after an agreed upon date (October 1, 1980 for Utah).

There are not many players around now (Federal or State) who participated in these meetings. Because of this, follow-up is suffering somewhat. The next step is to get some funds flowing to cover the cost of the retiree retroactive feature of the Cost of Living increase. The Traveler's company has taken a sizeable amount of money from the Purchase Payment Fund of the Utah Department of Employment Security Retirement Account to pay the retroactive feature of the Cost of Living payments to retirees. So far no reimbursement of these funds have been paid into this account.

Anything you can do to help put this final piece of the plan in place will be greatly appreciated.

Sincerely,

Administrator

ld

Attachments

EXHIBIT 13

AUG 3 1982

A. Barclay Gardner
Administrator
Utah Department of Employment Security
174 Social Hall Avenue
P.O. Box 11249
Salt Lake City, Utah 84147

Dear Barclay:

This is in response to your July 28, 1982, letter expressing concern regarding the Independent Retirement Systems, specifically the apparent lack of follow-up and the need to get some funds flowing to cover the retiree retroactive feature of the cost of living increase.

Let me assure you from the outset that it is the Employment and Training Administration's (ETA) basic position to honor to the extent possible previous verbal commitments made on the cost of living and the prior military service provisions of the Independent Retirement Systems.

In order to get some funds flowing for the purpose of financing the retroactive feature of the cost of living increase, you should submit a supplemental budget request (SBR) to the Regional Office. ETA will entertain such requests in the same manner it does other such requests, i.e. allowability and availability.

Technical questions regarding this matter should be directed to the Denver Regional Office. If I can be of any further assistance to you in this matter, please let me know.

Sincerely,

T. JAMES WALKER
Administrator
Administration and Regional Management

QUESTIONS SUBMITTED BY SENATOR PETE DOMENICI

EMPLOYMENT SERVICE DEVOLVEMENT

Question: The Administration has proposed to transfer responsibility for managing and financing the employment service to the States beginning in FY 1988. Specifically, what changes is the administration proposing to make?

Answer: Specific details of the proposed legislation will be developed in consultation with informed and interested parties, including representatives of the States. Basic to the proposal is the recognition that the States currently are primarily responsible for setting unemployment policies with respect to benefits and revenues; this role will be supplemented by permitting the States to direct the program's administration as well.

Currently, through the Federal Unemployment Tax Act (FUTA), the Federal government finances the States' costs of administering unemployment compensation and its associated labor exchange functions. This involves substantial prescription by the Federal government of the States' administration of their systems. The proposal will shift to the States the authority to set administrative policy; simultaneously, FUTA will be reduced, thereby releasing resources that the States can draw upon to finance their system.

Although final details have not been concluded, it is highly likely that the devolution of the administration of the unemployment and employment services will result in reduced payroll taxes with no diminution in the quality or timeliness of services, nor in program integrity.

It is the Administration's intention to consult with the appropriate Congressional Committees--including Appropriations--as we develop the proposal.

Question: How do they plan to phase down the program?

Answer: Devolution will result in a shift of authority from the Federal to State governments. As currently envisioned, a "phase-down" of the program will not be necessary, since the States will continue their unemployment compensation and employment services. They will do so, however, free of undue Federal intervention. While there are likely to be shifts, over time, in the allocation of resources among functions and priorities, these will reflect the informed judgements of the States as to where resources are most efficiently and effectively applied. As the legislative proposal is drawn up, we will develop a transition plan to assure the orderly passing of authority, including the recognition of the varying legislative cycles among the States. This plan will have as a central objective the assurance of continued timely and accurate payment of benefits and the avoidance of program disruption, to the maximum extent possible. Thus, "phase down" is not anticipated for the employment services; rather it is a transfer of responsibility from the Federal to the State governments.

Question: When will the proposed language be available?

Answer: The current plan is to submit a proposal to the Congress in the summer of 1985.

Questions Submitted by Senator William Proxmire

UNUSED TELEPHONE LINES

Question: A recent General Services Administration report indicated that the Federal government is paying more than $2 million a year for an estimated 16,000 telephone lines that are disconnected, unplugged or unneeded in Washington office buildings. Based on a sample, GSA has projected that the Department of Labor has 872 unused lines. At $125 a line that would cost you $109,000. Do you think GSA's estimate is accurate and can you tell us what steps you are taking to correct the situation?

Answer: In January 1985, the General Services Administration (GSA) provided the Department of Labor (DOL) a listing of phone lines for which they found "no recorded usage." Until GSA provided this new tool, no reasonable method existed to analyze the extent of the number of phone lines that were possibly disconnected, unplugged or unneeded. The information provided by GSA will be exceptionally useful and will assist the Agencies of the Department to easily pinpoint which lines may be unneeded. The data provided by GSA is currently being researched and any inactive or unneeded lines will be disconnected.

QUALITY CONTROL PROGRAM

Question: Mr. Secretary, your prepared testimony refers to a $17.7 million increase for a Quality Control program to increase the accuracy of benefit payments and revenue collections. How much will this investment save the Government in Fiscal Year 1986?

Answer: No program operates without error and UI is no exception to this rule. Estimated payment errors as a percent of total UI benefits, paid for 35 States under the Random Audit program, varied from 3 percent to 43 percent with the median being 10 percent.

Benefit payments in FY 1986 are estimated to be over $14 billion. A reduction of only one percentage point in UI payment errors would represent a potential savings to the Trust Fund of $140 million. Once QC is fully implemented, the Department anticipates that benefits of these and greater magnitude, in terms of benefit outlay savings and/or increased UI revenues, will be realized. However, it is not possible to quantify these projected savings with any accuracy until all States have implemented QC and accurate data for a least four calendar quarters is available.

Question: How much will be saved in Fiscal Year 1987?

Answer: Benefit payments are estimated to be over $14 billion in FY 1987. A reduction of only one percentage point in UI payment errors represents a potential savings to the Trust Fund of $140 million. The Department expects even greater impact in the form of increased revenues; however, more accurate projections of savings will be possible only after the QC program has been operational in all States for at least four calendar quarters.

EMPLOYMENT SERVICE FUNDING

Question: Mr. Secretary, you indicated in your prepared testimony that you are requesting a two percent increase for State Employment Service (SES) grants in 1986, yet you are also requesting the rescission of $37 million in this area in 1985, a rescission which would place SES grants in 1985 at the 1984 level. How can you justify freezing SES funding in 1985 while asking for a two percent increase in 1986?

Answer: The funding available for the Employment Service in Program Years 1984 and 1985 exceeds by more than 14 percent the comparable Fiscal Year 1983 ES State grants. This is equivalent to 7 percent per year, significantly above the actual inflation rate of less than 4 percent in each of the two years. Therefore, we believe that the system is amply funded and will not require the additional $37 million.

REACTIVATE COMMITTEE ON PRODUCTIVITY AND THE QUALITY OF WORKING LIFE

Question: Last year I asked whether the Department intended to reactivate a Committee on Productivity and the Quality of Working Life which was established to assure that productivity was considered in the development of departmental policy. The Grace Commission report pointed out that the last Committee meeting was held on Nov. 7, 1980. Mr. Komarek replied that the Committee was deactivated because its emphasis tended to be on items which were not really productivity related. When I asked why the Committee couldn't be continued but redirected, Mr. Komarek indicated that the whole productivity program was being reassessed and that the reactiviation of the Committee would be given serious reconsideration as part of the reassessment. Mr. Komarek, can you give us the results of that reassessment and tell us if the Committee is going to be reactivated?

Answer: Assessment of the productivity program has been a continuous process. It is clear that Departmental leadership is committed to improved performance and will do what is appropriate and necessary to achieve that end. Although a commitment has not yet been made to reactivate the Committee as originally constituted, we believe, at this point, that some form of high level coordination to assure focus and purpose of the productivity program is necessary. We have, in the past year, identified an A-76 Productivity Coordinator for the Department.

Over the past year, we have responded to direction from OMB to identify commercial/industrial activities in the Department, and to obtain such services at the lowest cost, whether through in-house performance, or from the private sector, or other governmental agencies, in the context of OMB Circular A-76.

In addition, at this time the Administration is considering various options for enhancing productivity, including, in particular, guidance on a specific organizational structure to carry out a productivity program. As soon as we receive specific guidelines on productivity from OMB, we will be in a better position to make implementing decisions, including the possible role of a Secretary's Committee on Productivity.

USE OF PRODUCTIVITY MEASUREMENT STANDARDS

Question: Last year's record response indicated that in 1982 40.3 percent of Department of Labor activities reported that 54.9 percent of your positions were covered. Why isn't it possible to use productivity measurement standards for more than half of your employees?

Answer: Non-participation by two major organizations -- ETA and LMS -- for the past several years in the Federal productivity measurement standards has made it impossible to cover more than 50 percent of DOL employees. DOL is working to increase coverage of its employees as reflected by an increase from 40.8 percent in FY 1980 to 54.6 percent in FY 1983.

DECLINE IN PRODUCTIVITY IN ACTIVITIES

Question: Between 1981 and 1982 the number of activities reporting on productivity dropped from 45.6 percent to 40.3 percent. Can you tell us why?

Answer: The Department of Labor has experienced a decline between 1981 and 1982 in participation in the Federal productivity measurement system by two of its major organizations -- the Employment and Training Administration and the Labor-Management Services Administration. The program terminations, cutbacks and agency reorganizations which have occurred in these organizations have lowered the productivity percentages.

DEBT COLLECTION TARGET

Question: I'd like to take a look again this year at your debt collection activities. Last Year Mr. Komarek indicated that your 1983 debt collection target was $203 million but that you were able to collect only $175 million in 1983. Did you meet your 1984 target of $185 million?

Answer: Total FY 1984 collections for the Department were $185.0 million, slightly exceeding the $184.7 million target. However, collections included $12.4 million from sources not considered in establishing the target. Collections by agencies with established targets amounted to $172.6 million, $12.1 million below target.

FY 1985 DEBT COLLECTION TARGET

Question: Last year you stated your 1985 debt collection target was $184 million. Is that still your target and do you feel comfortable with it?

Answer: The revised FY 1985 target is $172.1 million, down $11.2 million from the previous estimate. This reduction results primarily from a decrease in the collections estimated to be made by the Employment and Training Administration (ETA). Since FY 1984, ETA has emphasized cash payments in lieu of more readily available "in-kind" payments. In addition, ETA now projects $55.0 million in reclassified debts, up $16.8 million from the previous projection. Reclassified amounts primarily represent debts which are reduced or cancelled as a result of a successful appeal.

DEBT COLLECTION -- WRITE OFF

Question: A table you inserted in last year's hearing record shows a significant increase in write offs between 1983 and 1985. They are projected to rise from $5.8 million in 1983 to $12.5 million in 1985 although total debt collected stays pretty constant. Write offs would remain a small percentage of total debt collected rising from .8 percent in 1983 to a projected 1.6 percent in 1985. But can you tell us why you project an increase in write-offs?

Answer: Increased write-off activity generally results from the greater attention our agencies are directing to debt management. In some cases, debts should have been written off before now. In others, debt cases were not adequately documented to support the decision to write the debt off. We anticipate an increasing rate of write-offs over the next several years, and then a decline to a relatively constant lower rate once the older cases are cleared from the accounts.

DEBT COLLECTION--PENSION PLAN RECOVERED ASSETS

Question: Although your debt collection table shows that total outstanding debt under "pension plan recovered assets" remains pretty constant at between $120 million and $125 million, the collection rate falls from 16.6 percent in 1983 to a projected 4.7 percent in 1985. Can you tell us why?

Answer: Receivables are recorded for "Pension Plan Recovered Assets" based on signed deferred repayment agreements. Projected collections are based on the due dates of the deferred payments. During the period FY 1985-1986, a substantial portion of the deferred payments will become due shortly after the close of FY 1985. Consequently, projected FY 1985 collections are abnormally low, while those projected for FY 1986 are correspondingly high.

PERCENTAGE OF GS-12 AND ABOVE JOBS HELD BY WOMEN

Question: Last year we were told that although 43.4 percent of the Department's employees were women, only 18.2 percent of the Department's GS-12 and above level jobs were held by women as of September 30, 1983. This is a slight improvement over a 1982 figure of 18 percent but very slight. Can you tell us the percentage of GS-12 and above slots held by women as of September 30, 1984, and what steps you intend to take to improve the situation?

Answer: The percentage of GS-12 and above slots held by women as of September 30, 1984, is 18.2 percent. The Department of Labor has an affirmative action recruitment plan in all of its agencies to hire women in GS-12 and above jobs where there is underrepresentation. Every effort is being made to improve these percentages within the limits of the Department's reduced workforce levels.

DECLINE IN PERCENTAGE OF MINORITIES HOLDING JOBS AT THE GS-12 AND ABOVE LEVEL

Question: Last year you indicated that minorities comprised 28.8 percent of the Department's work force and held 18.8 percent of the GS-12 and above jobs. Those are pretty decent figures but I am bothered by the fact that the percentage of minorities holding jobs in 1982 at the GS-12 and above level dropped from 19 percent to 18.8 percent in 1983. Do you have any plans to reverse this trend?

Answer: The Department of Labor has an affirmative action recruitment plan for all of its agencies to hire minorities in GS-12 and above jobs where there is underrepresentation. Every effort is being made to improve these percentages within the limits of the Department's reduced workforce levels.

Questions Submitted by Senator Robert C. Byrd

EXPANSION OF BENEFITS REVIEW BOARD

Question: The conference agreement provided $1.6 million in additional funding for an increase of 53 full-time equivalent staff for the Benefits Review Board. This increase was to provide for an expanded benefits review board and support personnel. It is my understanding that you have expanded the Board by two members. Is this correct?

Answer: Two additional Board members joined the Board on February 4, 1985. However, an Administrative Law Judge acting as a Board Member has since returned to the Office of Administrive Law Judges. Thus the Board now has four members.

HIRING OF ADDITIONAL BRB MEMBERS

Question: When do you plan to bring the other four members on board?

Answer: Four administrative law judges are scheduled to come on board as temporary members for a one-year term effective May 6.

HIRING OF ADDITIONAL BRB STAFF

Question: Of the 53 additional FTE's provided in the FY 1985 bill, how many are now on board?

Answer: Fifteen additional staff have been hired.

BREAKDOWN OF ADDITIONAL BRB STAFF ALREADY HIRED

Question: Would you furnish for the record, a breakdown on the kinds of support staff you have hired--clerical, paralegal, attorneys, etc.

Answer: Of this staff, two are Board members, ten are attorneys and three are clericals.

HIRING PLANS FOR ADDITIONAL BRB STAFF

Question: Would you also supply for the record, your plans to bring these additional personnel on board--type of employee, when they will be hired, etc.

Answer: Listed below is a breakdown of additional staff to be hired by the Benefits Review Board:

Board Members	4
Attorneys	25
Paralegal Specialists	4
Clericals	5
Total	38

It is planned that all staff will be hired by the end of the year.

OFFICE OF THE ADMINISTRATIVE LAW JUDGES

Question: I noted from your FY 1986 budget justification, that the workload for the Office of Administrative Law Judges is increasing, and therefore, the backlogs are increasing in most program areas. What steps are you taking to address that situation?

Answer: Fair adjudication of individuals' claim against the government, or against private parties where the government provides the judical tribunal presents issues which must be individually handled. It is time consuming and expensive to recruit additional judges. We cannot increase our ability to handle what could be temporary increases in caseloads, such as Black Lung, without running the risk of putting in place resources which will be unnecessary when the caseloads even out.

We have addressed the problem in three major ways:

a. Increasing the number of law-clerks (attorneys) under 2 years temporary appointments;

b. Borrowing judges from other agencies.

c. Contracting out for additional professional clerical servies with retired judges and law clerks.

Through these three initiatives we have been able to increase Black Lung dispositions from 5,400 budgeted cases in FY 1984 to 7,000 projected cases in FY 1985, based on current output, to date.

BLACK LUNG FIELD OFFICES

Question: Mr. Secretary, as you know, I have a continuing interest in the Black Lung Field Office structure. I note from your budget justification that the Black Lung field offices will remain open and staffed in FY 1985. Do you have any plans to close any of the field offices in Fiscal Year 1986?

Answer: No, there are no plans to close Black Lung Field Offices in FY 1986.

EMPLOYMENT AND TRAINING ADMINISTRATION

STATEMENT OF PATRICK J. O'KEEFE, DEPUTY ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING

ACCOMPANIED BY:

CAROLYN M. GOLDING, DIRECTOR, UNEMPLOYMENT INSURANCE SERVICE, OFFICE OF EMPLOYMENT SECURITY

JANICE M. SAWYER, ADMINISTRATOR, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS

INTRODUCTION OF ASSOCIATES

Senator WEICKER. Mr. O'Keefe, would you please introduce your colleagues and proceed with a summary?

Mr. O'KEEFE. I am accompanied by Janice Sawyer, sitting on my right. Janice Sawyer is with our Office of Financial Control and Management Systems. Carolyn Golding is Director of Unemployment Insurance Service, Office of Employment Security.

PREPARED STATEMENT

As you requested, I will summarize my remarks and submit the formal statement for the record.

[The statement follows:]

STATEMENT OF PATRICK J. O'KEEFE

Mr. Chairman and Members of the Committee, thank you for this opportunity to appear before you. The 1986 budget request which you have under consideration totals $6.1 billion and is comprised of $3.9 billion for training and employment programs, $2.1 billion for income maintenance programs, and $105.3 million for program administration. The budget also contains proposals to reduce Fiscal Year 1985 availability by $298.6 million. Of this total, $11.8 million is related to Employment and Training Administration's portion of government-wide reductions under the Deficit Reduction Act of 1984, $67.3 million is related to proposed reductions of amounts not needed to accomplish the purposes for which they were added to the President's original 1985 request, and $219.5 million is related to excess carryover from 1984 in the Summer Youth Employment and Training and the Dislocated Worker Assistance programs. The 1986 request covers the program year July 1986 through June 1987 for programs authorized under the Job Training Partnership Act of 1982, including the Wagner-Peyser Amendments, and Title V of the Older Americans Act. All other programs and accounts are operated on a fiscal year funding basis.

TRAINING AND EMPLOYMENT SERVICES

The 1986 budget contains a proposed rescission of $255.7 million from the 1985 Training and Employment Services appropriation. This proposal would rescind $100 million appropriated this fiscal year for the Program Year 1984 (calendar year 1985) Summer program and would reduce budget authority for the Dislocated Worker Assistance program by $119.5 million. Because of carry-in funds from 1984, the level of participants served would not be affected in either program. Appropriation language to permit better targeting of resources to areas most in need is also requested for the Summer program. The proposal would also reduce the amount available for Federally-administered programs by $36.2 million. The major part of this reduction is comprised of a $10.7 million decrease in funding for Technical Assistance and Training activities ($2.1 million) and Pilots and Demonstration projects ($8.6 million) -- the Department's response to Congressional limitations in Section 2901 of the Deficit Reduction Act on the use of contracting and consultant activity -- and a $24.8 million decrease in trade adjustment activities authorized by the Trade Act of 1974. Training and other services for individuals certified under this legislation will be financed by the Secretary's Dislocated Worker Assistance program national reserve. In addition to these rescission proposals, $7.3 million of the remaining 1985 Pilots and Demonstration are now not available for obligation under the terms of Section 515 of the Treasury and Postal Service Appropriation Act of 1985 which mandated reductions in contracting and consultants.

The 1986 request for the Training and Employment Services appropriation is $2.8 billion, a net decrease of $708.3 million from the comparable twelve-month 1985 level of $3.5 billion. Approximately 2.2 million participants will be served by the 1986 request, 146,000 less than that funded in the prior program year. The major reasons for this are a reduction in requested funding for the Summer Youth Employment and Training program and the proposed phaseout of Job Corps in Program Year 1985.

The request provides funding for two major activities: Grants to States totalling $2.65 billion and Federally-administered programs totalling $154.8 million.

Grants to States

Three programs are funded within the Grants to States activity: the basic Block Grant training program; the Summer Youth Employment and Training program; and the Dislocated Worker Assistance program.

Funding for these programs is distributed, for the most part, by statutory formula. Training and supportive services provided by these programs are designed to promote the employment of program participants in the private sector.

In Program Year 1986, these programs will be in their third full year of operation. The data we have compiled on program operations thus far prove that JTPA has been and continues to be fully successful in providing training and employment opportunities for our Nation's disadvantaged and dislocated workers. In our main training program, the Title IIA Block Grant program, the key indicator that emerges after the first nine months of program operations is the 62 percent placement rate of Title IIA trainees in jobs. This far exceeds the national performance standard of 55 percent which many thought ambitious. We are also getting tremendous value for each Title IIA training dollar, with 74 percent of the funding being spent for training. The program is accomplishing these things while reaching those in need —

94 percent of enrollees are disadvantaged;
46 percent minority;
41 percent public assistance recipients;
50 percent female;
24 percent high school dropouts; and
39 percent youth

The 1986 request for the Block Grant program is $1.9 billion, the same as 1985, and will fund an estimated average enrollment level of 275,000 at a unit cost of $7,179.

The 1986 request for the Summer program which will operate during the summer of 1987 is $664.5 million. It is anticipated that 700,500 economically disadvantaged youth will be served. Although a slight reduction from previous years, this should prove to be adequate since the youth population is expected to decline and the improving economy will continue generating a greater supply of summer jobs from the private sector. Appropriation language to permit better targeting of resources to those areas with large numbers of disadvantaged youth and fewer available unsubsidized jobs is also requested.

The Dislocated Worker Assisance program under the Administration's request is $100 million for Program Year 1986. This represents a $3 million decrease from the revised 1985 level. When combined with anticipated carry-in funds, however, the average enrollment level of 50,000 will continue. The program is designed to meet the job search, counseling, relocation and retraining needs of displaced workers, including those displaced by increased imports.

Federally-Administered Programs

The request for Federally-administered programs is $154.8 million, a net decrease of $645.3 million below the 1985 level of $800.1 million. The largest part of this decrease -- $616.3 million -- results from the proposed phaseout of Job Corps during the program year. It is expected that disadvantaged youth previously served by this program will be effectively served, at a considerably lower cost, by other available employment and training programs. Other programs to be discontinued in Program Year 1986 are Technical Assistance and Training activities and Pilots and Demonstration projects. Of the $154.8 million that is being requested, $130.3 million will provide national level programs for groups with special labor market disadvantages (Native Americans, $62.2 million; migrant and seasonal farmworkers, $60.4 million; and veterans, $7.7 million) and $24.5 million will fund national activities, including research and national commissions ($5.0 million).

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

The request for the Community Service Employment for Older Americans program is $326 million, the same level as appropriated in 1985. It is divided between two budget activities: National Programs at $254.3 million and State Programs at $71.7 million. Funding provided in 1986 will support activities during the program year beginning July 1, 1986 and will provide 63,780 average enrollments at a unit cost of $5,111.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

The 1986 budget contains proposals to reduce existing 1985 funding from the Unemployment Trust Fund for State Employment Service Operations by $40.8 million. Our proposal would reduce State allotments for Program Year 1985 by $37.0 million which is unneeded to maintain current operations. The proposal would also reduce by $3.8 million the additional amount added to fund retirement plan amortization in certain States. These pension costs are covered adequately in the current allocation to those States.

The 1986 request for State Unemployment Insurance and Employment Service Operations is $2.4 billion. For unemployment insurance operations the request is $1.6 billion which will support workloads anticipated under the projected total unemployment of 6.9 percent and insured unemployment rate of 2.8 percent. The basic funding rate for unemployment insurance will finance costs associated with workloads averaging 2.0 million claims per week nationally. Administrative costs associated with workloads above the base level will be financed from the contingency fund. In addition to net mandatory increases of $9.10 million, additional funds of $17.7 million related to the installation of a new Quality Control program are being requested. These increases are exceptions to the overall program freeze. The request also includes $20.0 million, the same level as requested in 1985, for upgrading State automated systems for benefit payments and collection of taxes and $10.0 million for costs associated with State legislated conversions of wage request systems to wage record systems.

The request for the Employment Service is $783.9 million and is composed of $755.2 million in formula State allotments for Program

Year 1986, and $28.7 million for National Activities. The $755.2 million in formula State allotments is a net increase over the revised level of $740.4 million available for Program Year 1985 and includes an inflationary increase of 4.8 percent partially offset by productivity savings. This increase is also an exception to the overall program freeze. The $28.7 million for National Activities includes $7.2 million or one quarter of funding for the Targeted Job Tax Credit program which expires December 31, 1985, and $.3 million to reflect expected cost increases for other reimbursable agreements including labor certification activities.

Several other changes in the 1986 request need to be mentioned. A new State Integrity Activities sub-activity has been added consistent with the emphasis on the Quality Control program and related State agency activities to prevent, detect and collect overpayments and undercollections. The ES-202 statistical report on wages in being transferred to the Bureau of Labor Statistics in order to consolidate funding of all national statistical programs under one agency in 1986.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

A total of $465.0 million is being requested for this account to provide general revenue advances to the Unemployment Trust Fund ($80.0 million), and to the Black Lung Disability Trust Fund ($385.0 million). Funds for the Unemployment Trust Fund will be used to provide advances to the Federal Employees' Compensation account to cover benefit payments for eligible ex-servicemembers and ex-Federal employees. The request for advances to the Black Lung Disability Trust Fund would be reduced by $235 million upon passage of proposed legislation providing increased tax receipts for the Fund.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

The Federal Unemployment Benefits and Allowances appropriation request is $10.0 million. The request includes $5.0 million for Trade Adjustment Assistance benefits and $5.0 million for unemployment benefits and for health and pension costs on behalf of individuals covered under the Redwood National Park Expansion amendments. Title II of the Trade Act expires September 30, 1985. However, benefit payments related to weeks of unemployment that occurred prior to the expiration date will continue during 1986.

PROGRAM ADMINISTRATION

The 1986 budget proposals to reduce 1985 availability include: $1.7 million related positions added to the 1985 request which are not needed to meet program responsibilities, and $.4 million related to spending reductions required by Section 2901 of the Deficit Reduction Act.

The 1986 request for ETA's Federal staffing requirements totals $105.3 million and 1,416 positions, a net decrease of $9.5 million and 379 positions from the 1985 comparable level of $114.8 million and 1,795 positions. The request reflects the staffing impact of the programmatic proposals previously outlined -- the elimination of the Job Corps, Training and Technical Assistance and Pilots and Demonstrations programs, and expiration of the Trade Adjustment Assistance program -- the elimination of the Work Incentives program, and savings resulting from government-wide initiatives for regional consolidation, reductions in administrative overhead and Federal pay, freezing space rental rates at 1985 levels, and management improvements. The cumulative effect of these proposals will result in an end of year staffing level of 1,391. While it is anticipated that attrition occurring during the year will permit the reassignment of many of the staff working on programs proposed for elimination to other vacancies, reductions in force are anticipated in the regional offices related to the regional consolidation proposal and the elimination of the Job Corps. Every effort will be made, however, to minimize the number of staff affected and the adverse impact of these proposals.

This concludes my statement, Mr. Chairman. My staff and I will be happy to answer any questions you, or members of the Subcommittee, may have.

BUDGET REQUEST

Mr. O'KEEFE. The total fiscal year 1986 request is for $6.1 billion, and this is comprised of $3.9 billion for training and employment services; $2.1 billion for income maintenance activities, with an additional $105 million for program administration.

The budget request for the Job Training Partnership Act is $2.8 billion which will serve an estimated 2.2 million participants.

For 1985 we are also proposing a rescission of $219 million of excess carryover in the Summer Youth and Dislocated Worker Programs. Even after the rescission, service levels in these programs will equal or exceed previous years.

Smaller reductions in the JTPA programs associated with the Deficit Reduction Act and the Treasury Postal Service Appropriation Act are proposed in fiscal year 1985 and continued in our 1986 proposals. We are proposing no further funding of the Job Corps in 1986, a program that is increasingly expensive to operate and maintain.

In addition, it is our recommendation that title II of the trade program be allowed to lapse in September 1985, and that a rescission of the fiscal year 1985 training funds for the trade program be adopted.

We also propose the elimination of the WIN Program in 1986. For State unemployment compensation operations, we request a total of $1.6 billion. Our request is based on a 1986 volume of 2 million claims per week. It is estimated that about $14.6 billion in benefits will be paid out to about 8.3 million beneficiaries.

The Employment Service request for fiscal year 1986 is $784 million with $755 million set aside for formula allocations among the States to support basic labor exchange services.

We propose what is referred to as a negative supplemental of $40.8 million for the fiscal year 1985 authority. This action will maintain the Employment Services at their 1985 levels and set aside the double funding of certain pension costs in selected States.

Proposals for program administration reflect the departmental initiatives for increasing efficiency and decreasing costs, including the small regions initiative and the National Capital Service Center.

We are requesting $105 million to support 1,416 budgeted positions in fiscal year 1986. The reductions from fiscal year 1985 of about 380 positions reflect the elimination of the Job Corps, WIN and trade programs, as well as the benefit of our management initiatives.

PROPOSED RESCISSIONS

Mr. Chairman, this concludes my summary.

Senator WEICKER. In your statement, you say that $67.3 million in fiscal year 1985 funds are "not needed to accomplish the purposes for which they were added to the President's original 1985 request."

Did not Congress suggest these funds were needed when it included them in the fiscal year 1985 appropriations bill and did not the President sign the fiscal year 1985 appropriations bill?

Mr. O'KEEFE. Very clearly, Mr. Chairman, in appropriating that amount, the Congress made the initial judgment that that was the amount necessary for the agency to carry out its responsibilities, and the President, in the absence of a line-item veto, did sign the entire appropriation.

Senator WEICKER. Stop right there. "In the absence of a line-item veto," didn't we have a bill on the floor—maybe you fellows discussed that back there in the executive branch. There was no congressional action. But in the absence of a line-item veto?

Mr. O'KEEFE. In the absence of it, sir, the only thing we have to rely on is the Budget Impoundment Control Act which gives us the opportunity to propose rescissions and for the Congress within the specified timeframe to act on those rescissions. If the Congress doesn't take action, then the money will be spent according to the appropriation.

Senator WEICKER. I suggest you do well to remember, Mr. Secretary, the President's requests of any fiscal year are just that, requests. They will be dealt with by Congress on their merits and will not be reconsidered on the sole basis of having been submitted by the President.

Mr. O'KEEFE. I understand that.

PROGRAMS FOR THE HANDICAPPED

Senator WEICKER. The Labor Department currently has national contracts with several organizations serving the employment needs of the handicapped. I understand about $4 million in pilot and demonstration funds supports these projects conducted by Goodwill Industries and the Association for Retarded Citizens and others.

How successful have these projects been to date, and do you propose to simply terminate these projects without arranging for alternative funding services?

Mr. O'KEEFE. Mr. Chairman, I think the dollar figure for those contracts is slightly higher, and we will get a precise figure for you.

[The information follows:]

PROGRAMS FOR THE HANDICAPPED

Currently, the Department of Labor funds, from the "Pilots and demonstration" account, eight national projects which provide training and placement services specifically to handicapped individuals. Their respective funding levels are as follows:

Organization	*Current funding level*
Mainstream, Inc	$350,000
National Association of Rehabilitation Services	300,000
Chavez and Associates Foundation	500,000
Electronic Industries Foundation	289,000
Goodwill Industries	512,000
Association for Retarded Citizens	1,160,000
Epilepsy Foundation of America	900,000
National Federation of the Blind	265,000
Total	4,276,000

HANDICAPPED PROGRAMS

Mr. O'KEEFE. These have been programs for the handicapped that have been in the department's budget for several years. Generally, I would assess their performance to be very good, and they do reach out for populations that can benefit from the kind of training and employment services that we are all interested in.

The approach that we intend to take, based on the fiscal year 1986 budget proposals before you, is to use the monies that will be available to us for program year 1985 to assist these handicapped programs and others that are providing direct services to clients in arranging funding at the State and local level through resources available there.

Senator WEICKER. That is just pure rubbish. Nothing in the track record would indicate that is going to happen. You are talking about literally the weakest elements of our society, and you are going to gamble as to whether or not you can do this at the local and State level and through the private sector.

JOB CORPS

An independent evaluation conducted by Mathematica Policy Research shows the Job Corps produces benefits to society 45 percent more than the costs, $1.45 return for each dollar spent. Do you dispute the reliability of the study, and what have outside experts said who critiqued the study?

Mr. O'KEEFE. Mr. Chairman, I personally do not dispute the reliability of that study. I would point out, however, that study puts forward more than just the very generous benefit-cost ratio that is often cited. There are other tables in there and other assumptions and I think, in fact, that is one of the real strengths of this study Mathematica conducted.

With respect to the other evaluations of the methodology, we did have three outside independent evaluators look at it. They each concluded that the evaluations were methodically sound. As always with evaluators, there were quibbles at the margins, but I think basically the outside evaluators felt this was a well-done evaluation in the current state of the art.

SUMMER YOUTH JOBS PROGRAM

Senator WEICKER. It appears there are two main reasons why only 672,000 individuals were hired for last summer's youth jobs program instead of the 818,000 jobs intended by Congress. One, $100 million was not appropriated until July, too late to be effectively used. And, two, the authorizing legislation required shifting of funds that resulted in some jursidictions receiving large increases that were not used, at the expense of many big cities that suffered cuts.

Next summer we won't have the problem of a late supplemental since we had the wisdom to appropriate the entire amount needed for 818,000 summer jobs in the regular fiscal year 1985 Labor-HHS bill enacted last fall. And you have suggested bill language to correct the problem of unwarranted shifts of resources at the local level.

What is your rationale for proposing to reduce the number of jobs for the upcoming summer of 1985 to 767,000, especially in view of the fact you have come up with a solution to avoid last year's problem of area-by-area distribution of funds and there won't be the need for this disruptive late supplemental?

Mr. O'KEEFE. Well, Mr. Chairman, we are not proposing to reduce the number of participants in the program. Last year, as you pointed out, there were 672,000. What we do know, even if the rescission is adopted, there will be more dollars in the hands of the States and localities this summer than the total of $824 million that was appropriated in the base appropriation and supplemental last year.

We estimate there will be about $865 million available for the summer program after the rescission is enacted. So that even after serving 767,000 or 770,000 individuals this summer, the States and localities would still be carrying out almost $100 million.

I think what that suggests is that if the areas do encounter a substantial increased demand for services over that 770,000, they would still have adequate money this summer to meet that demand for jobs for youth.

Senator WEICKER. Explain to me where this money is coming from for the 818,000 jobs,. what is the disparity here?

Mr. O'KEEFE. I assume the $818,000——

Senator WEICKER [interposing]. 818,000 jobs.

Mr. O'KEEFE. I'm sorry—is arrived at by taking the average cost of a participant, which is about $1,000 per year, and dividing it by the total funds available.

Senator WEICKER. I still don't understand how you arrive at this $100 million figure. This is 100 million dollars' worth of Federal funds in the States' hands?

Mr. O'KEEFE. Right now, Mr. Chairman, the carryout in the hands of the States is about $150 million. We have an appropriated level right now of an additional $824 million in the system, for a total of $974 million available at the State level.

The administration has proposed rescinding $100 million of that for this summer. That would still leave in the hands of the States about $865 million for a summer program this year, which is more than the originally intended appropriated level and reflects the substantial carryout which we had last year, which partly is occasioned, as you pointed out, by the late appropriation of $100 million last July.

Senator WEICKER. You have asked Congress to rescind—this continues along this line of questioning—$100 million from the summer youth jobs program citing the fact that more than that amount remains unspent from last summer's effort.

Even if Congress agreed to rescind $100 million, wouldn't you have enough funds left to provide 818,000 jobs for disadvantaged youth this coming summer instead of reducing enrollments to 767,000 as you propose?

Mr. O'KEEFE. There will be adequate money in the system to reach the congressionally intended level of 818,000 jobs, if I am following the calculation of the 818,000 jobs correctly.

We do assume in our figures that there will be some carryout by the States and localities. Historically, that has been the case, but sufficient money will be in the hands of the program operators if they choose to go up to an 818,000 level of enrollment. Actual performance will depend on local situations.

Senator WEICKER. Since the enacted fiscal year 1985 Labor-HHS money bill is actually $100 million short of providing the full amount needed to sustain the 1986 summer program at 818,000 jobs, is there any technical reason why carryover funds cannot be used to cover that shortfall instead of being rescinded?

Mr. O'KEEFE. There is no technical reason, no. If I may, Mr. Chairman, I think as I pointed out, it is not insignificant, we will be carrying $100 million out of this summer based on past program experience.

PILOTS AND DEMONSTRATION PROJECTS

Senator WEICKER. In fiscal year 1986, you propose total elimination of the national job training pilot and demonstration projects for which $20,700,000 was appropriated in fiscal year 1985.

How would you propose providing special assistance to the hard-to-place target groups served by these funds, such as the handicapped and ex-offenders?

Mr. O'KEEFE. Mr. Chairman, when you look at that account, one of the things that first jumps out at you is that over 60 percent of that money goes to programs that serve no individuals, that provide primarily technical assistance or community activities, seminars, such as that. The remaining 40 percent does go for activities such as serving the handicapped. As I explained to you before, and as you obviously didn't agree, we believe in the upcoming 12 months we will be able to assist those contractors to arrange for financing at the State and local level from other resources that are available.

Senator WEICKER. Since local job training projects have historically not provided adequate attention to certain groups of hard-to-place individuals, do you realistically expect this to change by abolishing national emphasis projects intended to help them?

Mr. O'KEEFE. Mr. Chairman, I don't agree with the presumption that the States and localities have not been responsive to the needs of these populations. Certainly the dollars we have provided from the national level have enhanced the services that have been out there, but I think a review of the record does indicate that both in the Federal budget and the State and local budgets, there is a considerable and sizable commitment to the services of the handicapped, for example, and others who are targeted in that program.

I don't think we should too easily dismiss the efforts that are being made at the State and local level.

LETTER FROM NATIONAL ALLIANCE OF BUSINESS

Senator WEICKER. Well, let me read you a letter.

MR. JOHN ONG,
Chairman of the Board,
B.F. Goodrich Co.

DEAR MR. CHAIRMAN: I am writing in my capacity as volunteer chairman of the National Alliance of Business to request to you and Members of the Committee on Appropriations to reject the proposed rescission of the Department of Labor's fiscal year 1985 national program and technical assistance funds provided under title IV of the Job Training Partnership Act of 1982.

As you know, NAB is the catalyst that generates business involvement in local partnership programs to reduce unemployment among our disadvantaged citizens and those workers who require retraining because of plant closures and industrial dislocation.

For the first 12 years of its existence, NAB received nearly all of its operating funds from the Department of Labor while thousands of companies provided in-kind resources valued at two to three times the Department of Labor's support. Since 1980, we have been shifting the responsibility for providing part of NAB's operating funds to the private sector. Last year, we achieved a 50–50 balance between the Department of Labor support and income from business and fee-for-service sources. Our annual budget in 1980 was $13 million, all of which was provided by the Department of Labor. This year, the budget totals $10 million, of which $5 million is derived from a Department of Labor grant.

If the rescission is approved by the Congress, it could cause NAB to reduce its level of effort by one-half on July 1, 1985, when our current grant ends. We would have to eliminate the technical assistance provided to the more than 600 private industry councils across the country and reduce our efforts to increase employer involvement in the 2-year-old job training partnership system established by the Job Training Partnership Act.

On the other hand, continued funding by the Department of Labor in fiscal year 1985 from appropriated funds will permit us to help local private industry councils, local governments and employers address the unacceptably high levels of structural unemployment that persist in spite of the national economic recovery. It also enables us to provide the technical assistance and guidance that will help local councils develop effective partnership programs to hire and train the disadvantaged.

To cut off anticipated funding with only several months notice and with no forewarning seriously threatens the viability of the organization. It certainly diminishes our capacity to nurture and encourage employer commitment to helping people who need a second chance to gain access to the job market and financial independence.

We do not believe Congress intends this to happen. We urge you, your committee and your colleagues to reject the proposed rescission of the Department of Labor's fiscal year 1985 national program and technical assistance funds.

I would be pleased to furnish you with any additional information you may desire.

Sincerely,

JOHN ONG.

This, of course, clearly flies in the face of what you are telling me.

Mr. O'KEEFE. I think not, Mr. Chairman. I think it verifies exactly what I have told you. I will offer for the record the statement of work in the National Alliance of Business contract.

[The information follows:]

STATEMENT OF WORK

Attached is the statement of work which appears in the Department of Labor contract with the National Alliance of Business [NAB].

STATEMENT OF WORK
March 1, 1984 - June 30, 1985

I. TRAINING AND TECHNICAL ASSISTANCE TO THE JTPA SYSTEM

Private sector direct involvement in employment and training programs is a major goal incorporated into the Job Training Partnership Act (JTPA). Business response to this goal during the FY 1983 transition year has been strong; however, if this strong participation on the part of the business community is to continue and if the required further expansion is to occur throughout the critical first year of implementation and start-up of operations, then state and local programs must continue to be designed to meet private sector employers' needs, be of consistently high quality, and provide positive results. Business people who participate in the JTPA system as PIC members or in other capacities, need to have ready access to information that will help them fully understand and carry out their roles and responsibilities in the new system. In addition, the long-term institutional capacity and organizational development of state and local job training entities must continue to be improved and enhanced. Equally important is the development of greater awareness and support on the part of the larger business community for JTPA.

To meet the needs of both the business community and employment and training practitioners at all levels, the Alliance, will carry out a training and technical assistance program designed specifically to address those needs. The training and technical assistance activities funded under this grant with the Department are intended to accomplish one or more of the following objectives:

- o Assist employers and business organizations to understand, participate in implementing and use the publicly-funded employment and training system;
- o Assist those who are responsible for planning, administering and evaluating employment and training programs to do so in ways that maximize their appeal to and utilization by employers;
- o Promote the development of programs and materials that respond to employer needs and reflect business perspectives. This includes recommending methods for obtaining employer input in designing and operating employment and training programs; or.
- o Otherwise encourage or facilitate joint, public/private employment and training related initiatives.

The intended audiences and recipients of NAB's training and technical assistance products and services include:

- o Businesses and business organizations
- o PICs (members, Chairs, and staff)
- o SDA grant recipients
- o SDA administrative entities (program operators)
- o State officials and SJTCC members
- o Others involved in the formulation of employment and training related policies and/or program administration (such as legislators, public officials, and representatives of organizations that represent these groups).

The Department of Labor and NAB have determined that, where appropriate, products and services funded by this grant will be targeted to specific individuals within these audiences. For example, products designed for PICs will usually be distributed directly to the PICs' chair and staff director; products intended for SJTCCs will be sent to the SJTCC staff directors and chairs, etc. At no cost to the grant, NAB may produce additional copies of the products and materials developed under the grant. These additional copies may be made available to other interested parties who are not part of the grant audience. The target recipients for each of the audiences served by this grant and the approximate number of individuals for whom most products funded under this grant will be produced are listed below:

DOL GRANT AUDIENCE SEGMENTS

Audience/Target Recipients		Approx. Number
PICs		1,200
PIC Staff Directors	600 (maximum number)	
PIC Chairs	600	
SDAs (Program Administrators)		600
Staff Directors	600 (maximum number)	
STATES		120
SJTCC Staff Directors	60	
SJTCC Chairs	60	
KEY BUSINESS AUDIENCES		500
National Business Organizations	10	
CEO Representatives	300	
NAB Board/Advisory Members	190	
OTHER CRITICAL AUDIENCES		150
DOL National Technical Assistance Contractors	10	
DOL Representatives	50	
NAB Staff	90	
TOTAL DOL GRANT TARGET RECIPIENTS		2,570

Major subcomponents of the training and technical assistance program are described below:

A. Organizational Development Tools and Services

Specific activities in this subcomponent for which grant monies will be used are:

1. **Orientation for PIC Chairs and Members:** The need of private industry council members for timely orientation to their broad responsibilities in guiding and overseeing local training programs is critical during the initiation of programming under JTPA and the need will continue to be high during the first two-year program period. NAB will continue to assist the JTPA system in this endeavor through the delivery of orientation sessions for PIC Chairs and members. Grant funds will finance the provision by NAB of orientation sessions up to two hours in duration for any requesting PIC. The orientation provides these individuals with basic information on the JTPA legislation; helps prepare council members for their roles and responsibilities; and outlines staffing and organizational needs. A single copy of The Whole PIC Catalog, a guide on selecting organizational structures that are compatible with the PIC's role, and NAB's publication, Inside the PIC Boardroom will be provided to each PIC that receives an orientation session. More formal sessions of longer duration and additional copies of the materials will not be supported by this grant but will be offered by NAB for a fee to PICs that desire more in-depth orientations.

2. **Model Agreements for PICs:** As PICs operate under the new JTPA system, they will most likely require assistance in choosing the functions they will perform and the operating procedures to guide those functions. To help PICs accomplish those tasks effectively and within a short timeframe, NAB will produce and disseminate to each PIC/SDA, and SJTCC:

   a. **Model by-laws and incorporation procedures for PICs:** This package will be developed for PICs to use in conjunction with NAB's Whole PIC Catalog in reviewing the range of organizational and functional options available to them. Model by-laws and incorporation examples will highlight new PIC functions and authorities under JTPA and offer alternatives for establishing appropriate operating procedures.

b. **Model PIC/Local Elected Official Agreements:** This package of "model" agreements between PICs and local elected officials is intended to be used as a check list of options to be considered in assessing the PIC's role in the new job training programs and in establishing its functions.

3. **"Developing Policy and Guiding the Local Job Training System" Booklet:** NAB will design, develop, and deliver a booklet to assist PIC members in analyzing policy issues and shaping policy guidelines to guide the job training system in their local service delivery areas. Between March and September, 1984, five (5) copies of the booklet will be provided to each PIC and one (1) copy will be sent to each SJTCC. For the balance of the grant period, NAB will provide each new PIC member with a copy of this booklet entitled Inside the PIC Boardroom. Multiple copies may be produced with non-grant funds and sold by NAB.

4. **Executive Seminar for Employment and Training Directors:** NAB will continue to deliver its week-long residential seminar for local employment and training directors that is designed to enhance their effectiveness as the key brokers and leaders in forming community-wide public/private employment and training systems. The training focuses on assisting local employment and training executives to increase their organization's impact on the community, thereby maximizing the performance of employment and training programs at the local level. This seminar will be delivered at no expense to the grant at least two times, with attendance of between 15 and 20 employment and training directors expected at each seminar. Participant registration fees will be charged for these two seminars.

Beginning in October, 1984 and for the balance of the grant period, NAB will continue to deliver the Executive Seminar as a grant activity. Attendees will pay their own travel and per diem. The grant will finance all delivery costs and materials. NAB will coordinate delivery of this seminar with the newly established Job Training Partnership, Inc. Four to six sessions are planned between October 1984 and June 1985.

5a. **PIC Organizational Diagnosis Survey:** Early in Phase III, NAB will offer to assess the organizational development needs of selected PICs. Those interested in participating will be asked to complete a diagnostic survey. NAB will analyze the survey, identify needs, and make recommendations to the PIC. It is estimated that 50 comprehensive diagnostic surveys and analyses will be conducted.

5b. **Achieving PIC Excellence:** Based on the results of the surveys conducted in 5a. above, NAB will conduct organizational development sessions up to one day in length for selected PICs. Depending on the needs identified in the survey, sessions could focus on strategic planning, roles and responsibilities of PIC committees, effective board-staff communication, coordination with other organizations, selecting an appropriate program oversight role, etc. Sessions may be "add-ons" to already scheduled PIC meetings or separate organizational "retreats" and may last two, four, or eight hours, as appropriate. It is anticipated that 1,000 PIC members and 200 PIC/SDA staff will be served by this activity.

B. Assistance in Developing and Operating JTPA Programs

Specific activities planned for this subcomponent include:

1. **Regional Sessions for PICs on Planning; Designing Skill Training Programs; and PIC Marketing/Sales Strategies:** Under the terms of this grant, each NAB RSO will conduct a general session for interested PICs which addresses these three areas. The sessions will be organized into three components; each component will be substantive and designed to help PICs assess their capabilities and technical assistance needs in these areas as well as provide them with an understanding of the key issues in each subject area. They will be presented an overview of alternative approaches and will be given sources of information and assistance on which they may wish to draw to solve individual problems or to design customized programs. Each component is described briefly below:

The Planning Component will introduce the principles of strategic planning and goal setting and will help the PICs to develop individualized approaches to the preparation of a solid two-year plan for their service delivery areas. Among the topics to be covered are:

- Selecting the PICs' preferred role in policy guidance and program oversight
- The critical components of an effective two-year plan
- Determining input requirements
- Alternative methods of plan preparation.

The Component on Designing Effective Skill Training Programs is modeled after NAB's successful "Seventy Percent Solution" project and will provide an overview of ways to develop skills training programs that are responsive to employer needs and expectations. Among the key topics this component will highlight are:

- Establishing performance objectives for training and performance contracting
- Involving employers in curricula development
- Selecting occupations/jobs to train for
- Training without allowances

The Marketing/Sales Component will offer suggestions regarding the development and operation of successful PIC efforts to promote employment and training services and programs within the employer community. Discussed will be:

- The principles of successful sales/marketing
- Effective interaction with the private sector
- Tools and techniques to enhance the PICs' marketing/sales capacity.

Each session is expected to last from three to five hours and will be open for attendance by interested PICs at no charge.

In conjunction with this effort, NAB's national office will make available one set of existing resource materials for use by each RSO office in conducting the sessions. RSO staff will also be trained and briefed prior to the sessions as requested.

For PICs desiring onsite training sessions, additional materials or information in more detail than can be provided in the general sessions, NAB will offer a variety of subject specific seminars, specialized technical assistance and materials in planning, labor market analysis, program design and sales/marketing. Most of these activities will not be financed by this grant and will be offered by NAB on a fee-for-service basis.

Seminars specifically dealing with the design of skill training programs will be delivered at least once in each NAB region and funded under this grant:

2. **"Quality Training" Seminars:** Entitled "Developing Quality Training Programs", this seminar will be delivered once in each of NAB's regions and is intended to assist PIC and SDA staff develop and operate skills training programs that are more responsive to and reflective of employer needs and expectations. Materials for use in the seminars will also be produced and provided to seminar attendees. These seminars and the materials developed for them will provide the attendees with the tools necessary to better determine the needs of local employers, establish criteria for job/occupation areas, generate training performance objectives, and develop training

strategies and curricula. Each seminar will be able to accommodate up to 30 attendees.

At no cost to this grant, NAB may offer repeat sessions of the Quality Training Seminar and fees may be charged.

Also without funds from this grant, NAB will conduct:

3. **Two seminars** designed to assist key JTPA decision makers -- PIC members and SDA and PIC staff — to (1) evaluate the effectiveness of past and current skills training programs and (2) develop more effective programs through administrative and management measures such as performance contracting and well designed programs without allowances. Entitled the "Seventy Percent Solution Seminars" because they help program operators devise effective programs within the 70/30 cost allocation provision of JTPA, the two non-grant funded seminars are:

   a. **"Performance Contracting" Seminar:** This one and one-half day seminar and its accompanying materials has been designed to assist PIC/SDA decision-makers to write. use, negotiate and monitor efficient and cost effective performance contracts for skills training programs. The materials focus on the benefits of performance contracts, establishing appropriate measures, incentive structures and examples of different formats that can be used. Materials will be printed and available for purchase separate from the seminar.

   b. **"Training Without Allowances" Seminar:** This two-day seminar has been designed to train PIC/SDA staff and other program operators to operate successful skills training programs that do not pay participant stipends. Materials focus on topics such as vestibule training by employers, expansion of OJT, competency-based instruction, and improved client support services. Materials will also be sold through the Clearinghouse.

4. **A series of seminars, technical assistance aids and customized technical assistance to help and train PIC/SDA staff in marketing local employment and training services to the business community.** Included in this sales/marketing series are:

   a. **Customized Sales/Marketing Training for Employment and Training Professionals:** Seminars, workshops and onsite consultations will be available for a fee from NAB Regional Service Offices to assist local employment and training professionals to adapt successful skills and techniques of sales training from the private sector to the needs of the job training community, i.e., to teach job training staff to "sell" their programs to the business community.

   b. **"Making the Business Connection" Seminar:** This one and a half day seminar has been designed to provide local employment and training staff (PIC/SDA) with an increased awareness of the needs and requirements of the business community regarding JTPA trainees, as well as with the skills and information necessary to assist them to interact successfully with private sector employers. This seminar will be delivered on a fee basis.

5. **Specialized Planning Assistance and Tools for PICs and SDAs will include:**

   a. **Seminars for PICs/SDAs on Preparing the Two-Year Plan:** During this grant period, NAB will develop and produce a strategic planning seminar, with accompanying technical assistance materials, designed to assist PIC/SDA staff in the preparation of a solid and effective two-year plan for their service delivery areas. This seminar will be offered on a statewide basis for SDA teams consisting of representatives of the LEO and PIC, as well as the job training staff who will be responsible for producing the two-year plan. It is designed to include state-level participation and a section on state planning policy. The seminar will be offered to states for a basic fee.

b. **Customized Workshops and Onsite Assistance to Individual PICs/SDAs in Developing Plans:** Where requested and for a fee, NAB will work directly with PICs/SDAs to assist them to train staff or supplement staff efforts to develop two-year plans.

Under the grant, NAB will provide:

6. Special Assistance for States: The Job Training Partnership Act gives to the states new opportunities and challenges to improve the quality of job training programs. States are now responsible for approval of local plans, fiscal oversight and program performance oversight activities. The legislation also offers states unprecedented opportunity to influence the extent and quality of private sector participation in state and local employment and training activities, and the development of linkages with other human resource related activities. While the opportunities are great, the challenges posed by the legislation are formidable. NAB has included in its training and technical assistance strategy, specific plans to assist the states in meeting those challenges. The thrust of the Alliance's program of assistance for states is to help channel private sector input to state activities so that state level coordinating and oversight roles can be implemented through the public/private collaboration envisioned by JTPA.

   Working directly with the business community, national business groups, and state-oriented organizations such as the National Governors' Association, and the National Association of State Legislatures, NAB will offer the following types of technical assistance financed by this grant:

   a. **Orientation for SJTCC Members:** The first step toward achieving a new public/private approach to state-level JTPA activities is to ensure that members of the SJTCC understand the dimensions of their responsibilities and opportunities. NAB's orientation program for the business members of the SJTCC is designed to meet that need. Its objectives are to increase understanding of the states' role under JTPA and prepare them to fulfill their role in bringing private sector input to state functions. The orientation program includes presentations by NAB staff and the following materials:

      o Pocket Guide to JTPA

      o Fact Sheet on JTPA

      o Fact Sheet on SJTCCs

      o Roles and Options Guide for SJTCCs

      These materials will be periodically updated as appropriate. Orientations will be offered to interested SJTCCs by NAB Regional Service Offices at no charge to the SJTCCs. In addition to the orientation sessions, NAB staff will continue to meet with SJTCC staff and members on a less formal, ad hoc basis to discuss SJTCC roles and options, and to provide general technical assistance.

   b. **Help to States in Encouraging Business Participation in State-Level JTPA Activities** will be offered by NAB in a number of ways. NAB will participate in jointly conducted activities with NGA, the NASL and other national organizations in organizing a variety of joint conferences and other forums to bring together state JTPA administrators and key business leaders. Specifically, NAB will:

      o Develop, prepare materials for, promote and organize three one-day meetings to convene SJTCC chairs within specific geographic regions. The focus of the meetings will be to share the views of the SJTCC chairs from a number of states and to explore alternative approaches to building public/private collaboratives through the SJTCCs. A national meeting of SJTCC Chairs may also be organized by NAB in collaboration with NGA and the Department of Labor.

- Establish a mechanism for regular communication between and among the organizations that comprise the Business Working Group on Human Resources and the NGA, the NASL and other state-oriented national organizations.

- Communicate regularly -- perhaps through special bi-monthly mailings -- with SJTCC Chairs and other business members of the SJTCCs.

- Frequent meetings between NAB Regional Office staff and volunteers from NAB's CEO Representative Network.

- Meet regularly and frequently with SJTCCs and other state officials in individual states to explore and assist in increasing business participation in JTPA programs. NAB's regional staff, often accompanied by business volunteers from the CEO Representative Network or loaned executive program, will aggressively offer this onsite assistance and consultation as a service of NAB, funded by this grant.

In addition to the activities carried out jointly with other organizations, NAB plans to independently meet with SJTCC staff and members frequently in order to encourage and enhance the quality of private sector participation in state level JTPA activities. This includes:

- Participation in SJTCC meetings when requested; presentations and visits with state administrators to discuss how NAB might help mobilize private sector involvement generally in the state JTPA activities.

- Helping to involve the business community in state-level efforts to coordinate JTPA activities with other related services and assisting in the development of state-level program approaches and procedures that encourage coordination of employment and training activities with other related services. Particular attention will be given to offering help and channeling private sector views regarding the use of the special set-aside and coordination incentive provisions of the Act such as: options for use of the 10% set-aside for ES services; options for use and coordination of the 8% set-aside for education; options for use of the 6% incentive bonus for performance standards; and, programs for development of older workers.

NAB's Regional Service Offices will offer onsite and telephone assistance to the SJTCCs on these subjects and, examples of state-level coordination among JTPA and other services will be provided through NAB's regular publications and special "fact sheets" where appropriate including:

- A pamphlet of model programs that illustrates cooperative efforts between the business sector and vocational education programs;

- A handbook for vocational educators and employment and training professionals, particularly at the state level, on options to coordinate voc-ed and JTPA activities.

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c. **Training for States on Providing Technical Assistance to Service Delivery Areas:** In conjunction with the National Governors' Association, NAB will offer a five-day training program for state staff and the staff of organizations contracting with the state, who provide technical assistance to SDAs. This course will prepare people to offer both proactive, ongoing technical assistance, as well as corrective TA mandated by a performance problem or by PIC or job training staff. The seminar will be delivered three times during Phase III and will be offered to approximately 120 people. Attendees will pay for their own rooms, meals, and transportation costs.

7. **NAB's Annual Conference:** This grant will finance a portion of the development costs (exclusive of promotional costs) associated with NAB's 16th and 17th annual conferences. This includes workshop materials and the cost of workshop development. Registration fees, coupled with donations from the business community, will finance promotional activities and conference onsite delivery costs. In September, 1984, the Alliance will sponsor its 16th Annual Conference, in Atlanta, Georgia, which will be attended by nearly one thousand program operators and business leaders who have a vested interest in the new employment and training system created by JTPA. As has been the case since the JTPA legislation was passed in October, 1982, the Alliance, especially through the Annual Conference activities, will continue to serve as a catalyst for bringing together the major factors that are necessary to make the job training partnerships succeed at all levels —business, government, education, labor, and community organizations. Through the Annual Conference's program of technical workshops, symposia, plenary sessions, and presentations on a broad spectrum of employment and training related topics, NAB not only will provide practitioners at all levels with the most up-to-date information on developing effective solutions to local employment and training problems but, more important, will provide a unique forum for the partners in the new employment and training system with an opportunity to gather with their peers, in order to exchange experiences, understand how the system really works at the local level, and how to tailor the JTPA system's potential to local community needs.

NAB's 17th annual conference will not be held during this grant period. (It is scheduled in September, 1985.) However, monies from this grant will be used to finance much of the preparation work which will occur during the final months of the grant period.

8. **Ongoing, Ad-Hoc Provision of Technical Assistance to the JTPA System:** In addition to the specific projects described above, this grant will enable NAB to continue to provide cost-free assistance and information to and serve as a conduit for communication among all key segments of the JTPA system in order to strengthen public/private partnerships in employment and training and related activities. Delivered through its regional service offices, NAB's ongoing technical assistance program involves onsite visits, telephone contact, group meetings and dissemination of written material to all segments of the JTPA core audience described earlier in this workstatement in order to meet short-turnaround requests for assistance. Examples include:

- Providing up-to-date information regarding policy, program, and regulatory developments on employment and training related issues
- Assistance to businesses on TJTC; promoting use of TJTC through contact with the business community
- Initiating and convening meetings among state and local leaders of business, labor, education, and government
- Encouraging connections and coordination between state and local JTPA programs and related efforts such as economic development or vocational education
- Frequent and ongoing contact with the business community to encourage business awareness of and participation in JTPA activities.

This type of ongoing, technical assistance is not specifically associated with any single project, but it is a significant aspect of NAB's program of support to the JTPA system. So that this assistance can be provided at no cost to the recipients of service, funds from this grant will be used to support this activity which accounts for approximately 25% of the costs incurred by NAB's field structure during the grant period, or 40 days of technical assistance.

9. **PIC Roles and Options Under JTPA:** This booklet will be a compendium of the various ways PICs have organized and implemented JTPA around the country. It will describe the actual experiences of PICs in implementing their given

roles, mandated responsibilities, and program options. The booklet will be delivered free of charge to the JTPA core audience described earlier in the grant distribution plan. Additional copies will be printed by NAB with other funds and sold.

10. **Developing and Managing JTPA Performance Standards Systems:** NAB will develop, with assistance and guidance from the Department of Labor, a comprehensive strategy and plan to provide assistance and information to SDAs/PICs (and, where appropriate, state JTPA staff) on implementing JTPA performance standards locally. Specifically, NAB's program will involve helping DOL to transmit to the JTPA system the results of DOL-funded research on performance standards and the potential implications of the findings for local programming. NAB will also ensure that current DOL views on performance standards are make known to the JTPA system so that the federal perspective may be considered by states, PICs/SDAs as standards are implemented locally.

    The complete plan will be provided the Department by November 1, 1984.

11. **Developing Skill Competencies for Training Programs That Meet Business Needs:** NAB will design a comprehensive strategy and implementation plan for providing assistance and information to SDAs/PICs (and where appropriate, to state JTPA staff) on instituting training competency systems. While it is expected that implementation of the plan will begin during this grant period, many activities will be carried out in future years. The emphasis during this grant period will be on providing assistance to the JTPA system on training competencies for youth, specifically. NAB will develop its strategy and delivery plan jointly with Department of Labor representatives and will draw upon the results of DOL's research on training competencies. The complete strategy and description of specific activities to be conducted during this grant period will be provided to the DOL Grant Project Officer for his approval by November 1, 1984.

12, **Meeting Job Training Needs in Rural Areas:** A two-day workshop/forum for job training staff from rural SDAs is planned. It will be designed to help rural programs deal with the problems of serving the unemployed and businesses in dispersed areas. The program will be delivered five times, as a cooperative venture with state staff in those states with many rural SDAs. Sponsoring states are to pay for all site costs associated with conducting each workshop.

13. **Assessment of Training and Technical Assistance Needs Within the JTPA Delivery System:** NAB will conduct a needs assessment survey of selected program administrative entities and PICs to assist the Alliance in determining their critical training and technical assistance needs. State JTPA staff and council members will also be consulted where appropriate. The results of the survey will be documented in a report for the Department of Labor and will be shared with other technical assistance providers as the Department deems appropriate. The survey, coupled with the advice NAB intends to gather from JTPA practitioners through product-specific focus groups and a standing technical assistance advisory group, will assist NAB greatly in shaping technical assistance and training programs that are responsive to the JTPA system's most critical needs.

II. SERVICES TO AND RELATIONSHIPS WITH EMPLOYERS

The increased authority for and involvement of business in the new employment and training system, mandated by the Job Training Partnership Act (JTPA), prompts NAB to devote considerable efforts to working directly with business leaders to encourage them to play the major role envisioned for them by the legislation. Its Corporate Representative Network enables NAB to generate a unique and important source of private sector leadership and expertise to advocate greater business involvement in the employment and training system at both the state and the local levels. In addition to the business resources available through the Corporate Representative Network, NAB will continue its effective relationships with the national business organizations that, along with NAB, comprise the Business Working Group on Human Resources, and with their regional, state, and local affiliates. Through these valuable business networks, NAB will endeavor to educate and inform the private sector about the JTPA system. Particular attention will be given to informing private employers about:

- JTPA's services and incentives and the advantages of looking to local job training programs to provide skilled labor for private sector jobs;
- The need for continuous and active business involvement in the JTPA system at all levels.

This program area encompasses the following subcomponents:

A. Private Sector Orientation to JTPA

The first step to achieving more widespread business participation in JTPA is to ensure that employers have access to accurate, concise information about the Act, the JTPA system, and opportunities for private sector involvement. In addition to other materials on JTPA developed by NAB prior to this grant period — many of which are aimed at employers with some knowledge of JTPA — the Alliance will produce a 7-10 minute slide presentation for use by NAB and others as a basic introduction to JTPA for the business community-at-large. The orientation slide package will be used in a variety of settings, such as local meetings of business service groups, Chambers of Commerce, or NAB meetings with individual companies. Other organizations will be able to purchase their own copies from NAB. Through its Regional Service Offices, cost-free orientations funded by this grant will be provided to interested employers by NAB.

Later in the year, work will begin on a second slide presentation which will raise business awareness of JTPA and the availability of the Targeted Jobs Tax Credit and the other services provided by local job training systems. This second slide presentation will be ready for use in the fall of 1984. The slide presentations will be previewed for the Department prior to final production and distribution.

B. Promoting Targeted Jobs Tax Credits (TJTC)

NAB will continue to promote TJTC as an effective incentive for employers to hire individuals who historically experience difficulty finding jobs —welfare recipients, Vietnam-era veterans, economically disadvantaged youth, handicapped persons, and ex-offenders. In addition to its activities to promote employers' use of TJTC, NAB will draw upon its extensive knowledge of TJTC and its established relationships with PICs, the U.S. Employment Service, and national business groups, to increase efforts to inform the broader business community of TJTC, and will continue to assist employers in the application for and use of the credit. Special efforts will again be made to promote the use of TJTC as an incentive to employers to hire needy youth for the summer employment program. Specific activities to be carried as part of this subcomponent are:

1. **A TJTC Promotional Brochure** which NAB will review, update as appropriate, and print for dissemination to employers through the PICs and Employment Service Offices. Fifty-thousand brochures will be produced and provided on a formula basis to the 57 state Employment Services and to all PICs. A new brochure will be developed following reauthorization of TJTC and distributed in the same manner and quantities.

2. **An Explanation of the New TJTC Regulations** will be prepared by NAB in pamphlet form. Grant funds will finance provision of a single pamphlet to each PIC. Multiple copies will be financed with non-grant funds and offered by NAB for a fee.

3. **Provision of Cost-Free Assistance by CPA Firms to Businesses Using TJTC** will be made available to employers on a first-come/first-served basis through NAB Regional Service Offices and cooperating PICs. It is intended to help businesses already using or interested in using TJTC to derive the maximum benefits of the TJTC provisions. Approximately one hundred hours of direct onsite technical assistance will be provided under the terms of this grant.

4. **Employer/TJTC Brochure on Summer Youth** will be distributed to PICs which can use them to encourage employers to hire needy youth during the summer. The brochure highlights the benefits of TJTC when used in conjunction with summer employment. One hundred and fifty thousand copies will be distri-

buted to the PICs on a formula basis -- larger PICs with larger service delivery areas, will receive a larger number of brochures for distribution.

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5. **"Bottom Line Benefits to Business" Seminar** designed by NAB under a previous DOL contract will be updated and presented via the Biz-Net television network to 40 sites across the country. This teleconference is designed to increase business awareness of the benefits of involvement in employment and training programs in general and TJTC in particular. The teleconference will be conducted in key cities by RSO and national office staff. Twenty to sixty participants from small and medium sized businesses are expected to attend the teleconference at each of the 40 sites.

Supporting materials to be used in conjunction with the teleconference will also be revised, updated and reprinted. These include:

- Pocket Guide to JTPA
- Winning Tax Strategies
- Highlights of the Tax Act of 1982
- Bottom Line Benefits To Business

Without use of grant monies, NAB will also offer the "Bottom Line Benefits" program in on-site seminar settings. Fees will be charged of attendees at the sessions not financed by the grant.

C. NAB'S CEO Representative Network

During this critical period of implementation and start-up of JTPA operations, NAB will utilize its CEO Representative Network to encourage greater corporate participation in PICs and State Job Training Coordinating Councils and to provide recommendations to NAB and to the Administration regarding ways of using the leadership "clout" of the "Fortune 500" to generate JTPA participation among smaller employers. Working with NAB, the CEO Reps will mobilize the considerable resources of their companies' local hiring units and headquarters offices to:

- Assist in shaping and improving local employment and training systems through their representation on many PICs and by providing advice and technical assistance to others;
- Encourage their companies' hiring units to employ disadvantaged workers, including those trained and referred by PICs;
- Educate and inform company managers of the services and products available to local employers through PICs;
- Share information about successful training programs in their companies with other employers and with the NAB Clearinghouse which will disseminate Bulletins on them throughout the country;
- Urge their companies to develop innovative employment and training programs to prepare disadvantaged youth and adults for private sector jobs; and,
- Encourage other companies to participate in PIC programs as described above, and in employment and training efforts in general.

Recognizing the unique capacity of this program to provide important private sector input, NAB will carry out the following specific activities under the terms of this grant:

1. **Plan and conduct at least four policy/program meetings in Washington, D.C.** in order to inform the CEO Reps of NAB's plans and progress, and to keep them up-to-date on JTPA implementation and related issues.

2. NAB will produce a variety of printed materials on JTPA implementation and how it is progressing for dissemination by the CEO Reps to their hiring units. The purpose of these materials — such as letters, articles for inclusion in company publications, and brochures — is to increase participation in JTPA by these companies and their subsidiaries. Six to eight separate products will be produced and, when distributed through the CEO Rep Network, will reach 10,000 to 20,000 business people.

3. NAB will continue to recruit loaned executives from major corporations for assignment at both the Washington Office and the regional service offices. NAB expects to increase the number of loaned executives on staff from seventeen in 1983 to forty by the end of the grant period. Funds from this grant will be used to reimburse NAB's loaned executives for their travel, per diem, and related expenses.

4. During FY 1984, NAB will expand its recruitment of CEO Representatives from key companies from the "Fortune 500" that are not currently involved in the network. This expansion will be undertaken in order to broaden the corporate support base for JTPA/PIC job training programs at the state, regional, and local level. Approximately 50 new or replacement CEO Reps will be recruited.

5. NAB will develop and implement an ongoing training and orientation program for CEO Reps. For the CEO Rep Network to be highly effective in generating corporate support for job training programs, CEO Reps need to be kept informed on the progress of JTPA implementation and related employment and training issues. Designed to communicate JTPA issues, concerns, and opportunities, the program will be delivered to approximately 50 new CEO Reps by RSOs.

6. Direct communications with companies and corporate executives, primarily through two major mailings to the chief executive officers (CEOs) of major corporations and to new SJTCC and PIC Chairs. These mailings will support and encourage corporate involvement in JTPA/PIC programs. The CEOs of 5,000 corporations and all new PIC and SJTCC chairs will receive these mailings.

7. A regular information flow from NAB to inform the President's Private Sector Initiatives Office of efforts to foster public/private partnerships at the local level, to generate business support for JTPA/TJTC, and to support other private sector initiatives, particularly in the human resource development areas. NOTE: Any NAB staff housed at the Executive Office of the President will not be paid with grant monies.

8. Minority Business Management Project: NAB will support this effort, as requested by DOL.

D. Activities with Key Business Organizations

NAB will continue its role as the principal provider of leadership and staff support to the Business Working Group on Human Resources. Through the regional and local networks of the four other organizations in the Business Working Group (The Business Roundtable, CED, the U.S. Chamber of Commerce and NAM), NAB will continue to carry out activities that support a strategy to encourage more widespread business participation in PICs and SJTCCs. Specific activities in support of this subcomponent are:

1. Development and dissemination of materials (such as articles, pamphlets, and brochures) designed to educate and inform the memberships of the key business organizations about the ongoing opportunities for business involvement in JTPA activities at all levels. It is expected that materials will be used by other member business group organizations in their communications to their memberships (approximately 20,000 business people in total). NAB's periodic progress reports to the Department will contain information regarding the materials produced by NAB and the activities of the business organizations to use the materials.

2. **Involvement of the business organizations' membership networks at all levels, to increase employer input to the program implementation aspects of JTPA.** This will be accomplished by assisting the national business organizations to develop issues, analyses and options papers that inform and encourage their members to participate in addressing JTPA-related implementation issues and problems at the state and local levels. Five analyses papers will be prepared, for distribution to business leaders through the national business organizations.

3. **Development and implementation of a strategy to establish ongoing relationships with 50 national trade associations, in order to foster business involvement in the JTPA public/private partnership and in TJTC.** NAB will produce and provide trade associations with information (such as articles, editorials, and feature stories) for use in their membership publications. NAB will also respond to any trade association's interest in JTPA/PIC/NAB activities such as TJTC seminars, industry/education cooperation programs, and policy issues and will provide appropriate recognition by NAB and the White House of exemplary trade association programs, projects or activities in support of JTPA or TJTC.

These efforts will be reinforced by and supplemented with a variety of ongoing mailings and other communications between NAB and key business people who have volunteered to participate in the JTPA system, such as the PIC and SJTCC chairs.

III.TARGETED PROGRAMS

During this grant period, NAB will continue its three "target" programs, aimed at specific labor market problems: record unemployment among the nation's youth; the problems and challenges posed by the dislocation of workers from jobs to which they will be unable to return; and, establishing better coordination between economic development and JTPA efforts to increase jobs and training for the economically disadvantaged. A description of each target program follows.

A. Programs to Increase Training and Jobs for Youth

Since 1969, the Alliance has fostered programs aimed at preventing the nation's youth from becoming tomorrow's unemployed adults. Challenged by unacceptably high youth unemployment rates, NAB's target programs for youth during this grant period will consist of two subcomponents: a "year-round" program and special efforts to encourage businesses to hire young people during the summer months. The legislative requirement that at least 40% of available JTPA monies be dedicated to job training projects for youth, underscores the priority that Congress places on combating unemployment among youth. Through its special summer projects and its year-round programs, NAB will assist in efforts to effectively channel available federal monies toward the creation of private sector training experiences and jobs for youth and, the Alliance will work aggressively within the business community to encourage unsubsidized job opportunities.

1. **NAB's Summer Projects for the 1984-1985 seasons include:**

   a. **Training and Technical Assistance and Promotional Campaign Materials on Summer Youth:** NAB will again provide training and technical assistance materials for use by the PICs to promote and encourage participation by private employers in the summer programs. Specifically, with grant monies, NAB will:

      - Develop and implement, with the National Ad Council, a promotional campaign theme that will be carried out in a variety of technical assistance materials and advertising efforts, to include television, radio, newspaper, and magazine advertising. The advertising material will be distributed nationwide by NAB to selected radio and TV stations and local business organizations.

      - Revise and produce summer youth promotional materials, designed to raise private sector awareness of summer youth programs, particularly among small to medium-sized businesses. The promotional materials to be prepared by NAB include: flyers, posters, and brochures, pocket resumes and job search guides for youth, and a speaker's kit for use by PICs in making presentations about summer youth programs. All PICs will be provided a basic supply of these materials. The distribution plan and quantities of these materials to be distributed are given below: (NOTE: For purposes of this distribution plan, large PICs are defined as those with a service delivery area population of at least 500,000; mid-sized PICs are those with a population of 300,000 to 500,000; small PICs are those with a service delivery area population under 300,000.)

- o "Let's Get All of America Working Again"

  500 copies to large PICs
  300 copies to mid-sized PICs
  100 copies to small PICs
  139,200 Total Copies

- o TJTC Fact Sheet on Hiring Summer Youth

  50 copies to large PICs
  30 copies to mid-sized PICs
  20 copies to small PICs
  17,280 Total Copies

- o Speaker's Kit

  one to each PIC; 600 total copies

- o Job Search Guide for Youth

  1,000 copies of each to large PICs
  500 copies of each to mid-sized PICs
  200 copies of each to small PICs
  265,200 Total copies of each

- o Pocket Resume for Youth

  1,000 copies of each to large PICs
  500 copies of each to mid-sized PICs
  200 copies of each to small PICs
  265,200 total copies of each

- o "Hello I'm New"

  1,000 copies of each to large PICs
  500 copies of each to mid-sized PICs
  200 copies of each to small PICs
  265,200 total copies of each

o Revise, print and distribute the Summer Youth Technical Assistance Guide and the Summer Youth Ideabook to each PIC and SJTCC. Designed to increase the PICs' ability to coordinate effective summer youth programs with other local groups, both public and private, who are also involved in operating summer youth programs, these guides contain tips on organizing and running successful summer programs and describe techniques that have been tested by local program operators. Each PIC will be provided five (5) copies of the Guide and the Ideabook; one (1) copy of each will be sent to the SJTCCs.

b. **Regional Kick-Off Sessions:** Prior to the summer months in both 1984 and 1985, NAB's Regional Service Offices will sponsor at least one "kick-off" session to assist PICs and other interested organizations in organizing the 1984/1985 local summer jobs programs. As time permits, and for a fee, the Regional Service Offices will also provide individualized technical assistance to PICs who have not previously operated youth employment programs, or which desire help in improving the quality of their summer programs.

c. **Encouraging Privately-Funded Summer Efforts:** NAB will make special efforts to increase voluntary support for summer youth programs in 1984 and 1985. Employers will be encouraged to donate training facilities, equipment, supervisors, and instructors to supplement subsidized programs and to commit to hiring and/or training economically disadvantaged youth through their own efforts rather than through the subsidized JTPA system. This activity will be undertaken primarily through an advertising campaign, supplemented by NAB's direct contact with individual employers, trade associations and other national business groups. Working in coordination with the efforts of the President's Office for Private Sector Initiatives, NAB will repeat the telephone and letter campaign efforts that were so successful this year. Over 1,000 employers will receive a letter from President Reagan and NAB's Chairman (David Roderick in 1984 and John Ong in 1985) and a follow-up phone call from NAB's business volunteers, urging them to hire youth and to lend their support to summer programs in other ways. The results of the two summer campaigns conducted during this grant period will be documented by NAB for DOL and, as in past years, NAB will convene a group of business people to help evaluate the summers' experiences. This group will also help to select companies for receipt of recognition awards from the President for outstanding efforts to train or hire youth during the summer. (As noted earlier, NAB staff housed at the Executive Office of the President who may be involved in this activity will not be financed by this grant.)

2. Year-Round Youth Projects: Programs that involve youth in training and in exploring career opportunities year-round, and not just during the summer months, are a necessity. With funds from this grant and the corporate community, NAB will inform the business community, and assist PICs and SDAs at the local level, in the development of activities designed to involve youth in training programs on an ongoing basis. Special steps will be taken to assist in effective implementation of the new options opened to both businesses and program operators as a result of the try-out employment provisions of JTPA. Plans include those to:

a. **Co-sponsor Forums for PICs, SJTCCs and Employers on Youth Employment.** With NGA and NAPIC, NAB will co-sponsor a series of four meetings to encourage public/private collaboration in year-round employment and training efforts for youth. Funds from this grant will finance NAB's participation in these forums, including staff salaries, travel, and materials produced by NAB for use in the series, which is scheduled during the spring of 1984.

b. **Develop, produce and distribute a series of technical assistance tools to assist PIC/SDA practitioners in designing and implementing programs for youth under the 40% requirement.** This series would be organized around exemplary school-to-work transition models, such as those developed by NAB for the VEDP and YMTF programs, as well as development of new models for the try-out employment provisions of JTPA. Materials include:

- Comprehensive Guide to Planning Youth Programs Under JTPA to be developed in cooperation with NGA and NAPIC. Grant funds will finance the printing of 150 copies that will be used by NAB's RSOs in their TA efforts. Without grant monies, NAB will produce additional copies of the guide and make them available to interested parties for a nominal fee to cover postage and handling. NAPIC will finance printing of copies for distribution to individuals who participate in the NGA/NAB/NAPIC youth forums.

- Workbook on Marketing Youth Programs to Business for distribution to all PICs. Each PIC will receive five copies free of charge.

Additional copies may be printed with other than grant monies and sold by NAB to interested parties.

- A Monograph on Pre-Employment Programs and Youth Competencies will be developed and provided, cost-free, to each PIC. The grant will finance its development and the production and distribution of five copies to each PIC. NAB may print additional copies with other than DOL monies and offer them for a fee.

c. **Training RSO Staff to Enhance Their Ability to Provide Assistance on Youth Programs.** NAB's Training Department will conduct a two-day session for selected RSO staff to expose them to the new materials described above, and to enhance their ability to provide information and technical assistance to PICs in youth-related programs.

Without grant monies, NAB will provide:

d. **Specialized technical assistance** for a fee, to those who wish specific assistance in planning, operating or assessing youth employment and training programs.

e. **Collaborative Project with MDRC to Serve Disadvantaged School Dropouts.** The Manpower Demonstration Research Corporation and NAB are jointly sponsoring a national demonstration project to examine the effectiveness of two program alternatives for assisting unemployed, economically disadvantaged school dropouts, aged 18-21. Both models emphasize a range of educational services designed to strengthen basic skills, but have different employment and training strategies. One combines basic education with occupational skills training, while the other focuses on general work experience (try-out employment) in combination with basic education.

Approximately 3-6 program operators will be selected to participate initially, with an expansion to 12-14 sites after the first year. Sites selected will be those who can easily adapt existing programs to one of the models and have an interest in the demonstration research.

MDRC will take the lead role for planning, administration and research design and NAB will assist in these areas. Additionally, NAB and MDRC will share private fundraising responsibility and NAB will take the lead in private sector involvement.

B. Dislocated Worker Programs

A second industrial revolution in America is at the root of a disturbing and far-reaching labor market phenomenon: the dislocated worker. Fueled by structural shifts in the economy, unprecedented technological advances, and fierce foreign competition, America's second industrial revolution has resulted in consolidations, plant relocations, and wholesale shutdowns of businesses and industries. The victims of these changes are masses of permanently laid-off workers. Unlikely to be reemployed without retraining or other assistance, these dislocated workers and the communities they live in often require special assistance in order to reenter the labor force quickly. Recognizing the seriousness of the problems faced by and attendent to dislocated workers, NAB has taken the lead in working with others in the employment and training community, labor, and industry, to find workable solutions to dislocated worker issues. NAB will build on its research and experience in this area and undertake the following projects to assist businesses, states, communities, and other organizations to plan, fund and implement dislocated worker programs:

1. **Technical Assistance to Businesses on Title III Implementation:** NAB will design, develop, and implement a technical assistance strategy aimed at assisting companies that face major reductions in force.

Supported by this grant, NAB will conduct:

a. **Orientation Programs to Inform Businesses About Title III:** The orientation effort will involve:

   - o One-day visits to selected companies by NAB staff to explain Title III, its benefits in workforce reduction situations, and how funds or services can be accessed.
   - o A brochure which outlines the orientation program and the services that businesses can obtain through NAB regarding Title III and worker adjustment issues.
   - o The provision of reference materials which can assist companies to develop effective workforce reduction programs such as NAB's information packets containing model programs and a copy of the employers' guide described below.

b. **A Technical Assistance Guide for Employers** which provides information on designing workforce reduction programs. One copy of the guide will be provided to each SJTCC at no cost. Additional guides will be available from NAB for a fee.

Not financed by this grant, but related to the activities above, NAB will offer as part of its fee-for-service product line:

c. **Direct technical assistance to companies in the development of worker adjustment programs.** Upon request and for a fee, NAB will assist companies to prepare applications for receipt of Governors' Title III discretionary funds to defray the companies' costs of setting up worker assistance programs for their terminated employees. Once the companies are funded, NAB will work with companies at each site as needed to set-up the worker assistance programs. At selected sites, NAB will work in partnership with the Human Resource Development Institute of the AFL-CIO (HRDI).

2. **Technical Assistance to States on Title III Implementation:** NAB has developed a range of technical assistance services and materials designed to assist states to plan, design and implement worker assistance programs tailored to their specific needs. Materials to be used in the conduct of this activity include brochures and pamphlets with information about Title III and the assistance NAB is able to provide them, and a guide for states and how to plan their Title III program, developed under a previous DOL contract.

Supported by this grant, NAB will:

a. **Work with state officials to provide them with general information on the further development of their Title III programs,** especially **as it relates to business participation. On request, NAB will conduct a one-day orientation session for state officials. One copy of the state technical assistance guide and other materials on Title III will be provided during the orientations.**

b. **Develop, prepare and present 30 workshops, seminars and symposia intended to brief state and local JTPA administrators** on policy and program issues to be considered in shaping Title III programs and will offer a wide range of reference materials that have been developed or collected by NAB on the subject of dislocated workers and Title III. These sessions will be offered at the National Conference on The Dislocated Worker: Re-Employment Solutions — New Directions.

Not funded by this grant and for a fee, NAB will offer customized services. These are:

c. **Direct assistance to states to design worker adjustment/Title III programs particularly as it relates to the private sector.** For states that request specific, customized assistance on Title III related issues that go beyond the orientation funded by the grant, NAB will provide program design, evaluation and operational services to individual states for a fee. This will include the development of private sector models, how to work with companies and unions and modifying requests for proposals and Title III related materials to conform to private sector situations.

d. **Technical assistance guide for states on Title III.** This guide, mentioned above, was developed under a previous DOL contract. It will be sold by NAB during this grant period.

e. **Self-Directed Job Search Skills Training Seminar:** Designed as a train-the-trainer session, this seminar and accompanying materials will assist interested states, PICs, community colleges, employment service offices, unions, businesses or others to organize and operate a job-search program for dislocated workers. In the context of the seminars, NAB will provide consultation and instruction to individuals responsible for setting up job-search programs.

C. Economic Development

Their public/private composition, local focus and opportunities for establishing diverse and flexible funding bases make PICs particularly well-positioned to lead local efforts to coordinate economic development with employment and training activities. For the past three years, NAB has assisted PICs in this effort. With financial support from this grant, NAB will continue to educate local economic development organizations about JTPA and provide a forum for bringing economic development practitioners together with their employment and training counterparts to establish specific connections between job creation projects and the local employment and training systems.

1. **Staff Expertise in Linking Economic Development with JTPA Activities:** Related to NAB's ongoing, basic TA functions and communications with the JTPA system, NAB proposes that grant monies be used to finance NAB's inhouse expertise (the equivalent of salary-related costs for one full-time staff position) enabling provision of ongoing information and TA to PICs on the relevance of JTPA to economic development. This will include the cost of one trip between Washington and each NAB region; technical assistance by telephone to interested PICs; and financing staff related costs to assist in NAB's support of the Minority Business Management Project sponsored by the Commerce Department.

Without monies provided by this grant, NAB will offer the following two services to encourage linkages between economic development and employment and training:

2. **"The Employment and Economic Development Connection" Seminar:** This seminar, delivered twenty-one times nationwide during the last two fiscal years, continues to be well received by attending PICs and economic development practitioners. The one and one-half day seminar consists of technical workshops and presentations on economic development linkages. This seminar will be refined and tailored for delivery under JTPA and NAB will conduct seven to ten seminars nationwide on a fee-for-service basis for local employment and training and economic development practitioners.

3. **Economic Linkages Individual Advisory Service:** NAB will continue to refine its individualized advisory service for PICs, local government officials, and other public and private sector organizations interested in creating local economic development/employment and training linkages. The service will be provided to localities on a fee basis by a team consisting of NAB staff and consultants. Services provided by telephone and in person will include:

   o Researching linkage problems

   o Identifying local resources

- Assembling the appropriate individuals (economic developers, employment and training professionals, government officials, businesses, etc.)
- Setting up ongoing communication mechanisms among the parties
- Developing a linkage plan
- Recommending next "action" steps
- Providing limited follow-up.

4. **HUD-Funded Projects:** NAB will continue its site-specific consultations funded by a contract with HUD.

IV. PUBLIC INFORMATION AND POLICY DEVELOPMENT

In order for the reforms envisioned by JTPA to proceed smoothly during the initial periods of implementation and start-up of operations which this grant spans, it is vital that all of the partners involved in the employment and training system at all levels remain informed of important policy developments and events in a timely fashion. Equally as important is a continuous public affairs and awareness program that reaches out to those who are not yet partners in the system to encourage participation, especially by members of the business community who need to recognize the potentials and opportunities afforded by employment and training programs anchored on private job opportunities.

In the past, NAB has devoted considerable efforts (with considerable success) to carrying out these two critical activities. With its expertise gained in this area, NAB will continue to provide these two vital functions to the business community, states, PICs/SDAs, government officials, and other employment and training practitioners. This will be accomplished through four major project efforts:

A. The Clearinghouse

The Clearinghouse is a national information service for human resource development professionals and policymakers in the public and private sectors. Through its computerized database and publications program, the Clearinghouse gathers information on employment and training issues, and provides in-depth program research and information and referral services on successful training and employment efforts, conducted by business and industry in partnership with educators, labor organizations, and public and private community based organizations. NAB's constant monitoring of employment and training issues and developments, coupled with the sophisticated capabilities of its data system, make the Clearinghouse a valuable source of help and guidance to the new JTPA system.

Specific Clearinghouse activities planned under the terms of this grant are:

1. **Database Maintenance and Expansion:** NAB will continue to organize and maintain its resource center/library, housing shelf copies of all materials acquired by the Clearinghouse, including reference books, reports, surveys, articles, and periodicals. The automated database will also continue to be expanded by approximately 1,850 items during the grant period. This involves cataloging, summarizing, and indexing model program descriptions, program leads and reference materials acquired or developed by NAB.

2. **Information Research and Referral Services:** The Clearinghouse continues to receive several thousand requests, by telephone and by mail, for information on specific employment and training-related topics. NAB expects to receive and respond to approximately 135 requests each month from individuals in the public and private sectors. Approximately 65 requests each month are expected to be from SJTCCs, PICs and SDAs and the grant will finance NAB's ability to respond to those. To fill those requests, Clearinghouse staff will conduct searches of the Clearinghouse database and library and mail copies of relevant materials to the inquirers. Information services to the core audiences described earlier in this workstatement will be financed by this grant. Other individuals may be charged a fee.

3. **Bulletins:** Bulletins provide first-hand descriptions of exemplary employment and training programs nationwide. Designed to provide information about program models that may be more briefly highlighted in NAB's other publications, Bulletins describe both job training programs and innovative administrative arrangements. This year, many Bulletins will focus on issues of particular relevance during the JTPA start-up period. For example, Bulletins are planned on models of state and local efforts to forge linkages between job training, education, and economic development programs; exemplary business-supported or business-initiated programs; Title III programs for dislocated workers; PIC/SDA marketing programs; and training for hi-tech occupations. As the second year of operations under JTPA gets underway, Bulletins will be published on successful programs developed during the first year of JTPA. The Clearinghouse will produce at least 50 Bulletins during the grant period. Single copies of these will be sent, either individually or as part of the NAB Clearinghouse Quarterly described below, to PIC, SDA and SJTCC directors. NAB may print additional copies with other than DOL monies, to be sold.

4. **NAB Clearinghouse Quarterly:** In FY 1983, the Clearinghouse began to produce subject-specific Information Packets composed of Bulletins, bibliographies, and other specially-prepared materials containing information on particular employment and training problems and programs. Three Information Packets were produced in FY 1983 on (1) dislocated workers, (2) economic development and job creation, and (3) training with limited allowances. During the first three months of programming under this grant, an Information Packet was produced on Business/Education Cooperation.

   Beginning in June 1984, the Clearinghouse will produce Information Packets on a regular basis in a bound format under the name The NAB Clearinghouse Quarterly. Between June 1, 1984 and July 1, 1985, the Clearinghouse will produce five issues of the Quarterly. Upcoming issues of the Quarterly will focus on innovative ways to market job training programs to business and programs for dislocated workers, with an emphasis on business initiated programs instituted since the Clearinghouse first addressed this problem in April 1983.
   One copy of each issue of the Quarterly will be sent to each PIC, SDA and SJTCC Director with monies from this grant. Production of additional copies of each issue may be financed by NAB and sold.

5. **PIC Data Collection:** Since 1982, NAB has maintained a computerized data bank containing key information about the Private Industry Councils. The data bank contains specific information regarding the PICs' characteristics --size, composition, funding level and sources, and types of programs — and is the only one of its kind. Since the need for this kind of information is so vital, NAB continues to develop and expand this data collection effort. Under a previous DOL contract, NAB conducted a study of the PICs during the first months of transition from CETA to JTPA. Questionnaires, administered by telephone, were used to collectdata needed to: (1) track the activities of PICs during the first stages of transition; (2) analyze the capabilities of the new delivery system early in FY 1984; (3) create a "snapshot" of the level and type of private sector involvement in JTPA; and (4) determine the key characteristics that distinguish PICs in the new JTPA system from previous models. Seven hundred copies of the results of NAB's initial research were produced with DOL monies and were distributed to the Department, the Commission on Employment Policy, and to each SDA.

   Additional copies of that report, and additional reports prepared from the data gathered during the study may be produced by NAB without DOL monies and made available for a fee.

   During this grant period, NAB will conduct a second study of the PICs. This grant will finance approximately 50% of this effort -- the study of 250 - 300 PICs. Financial support from other sources has been obtained which will fund the other half of the effort and enable the inclusion of all PICs in the study. A report on the results of this study will be issued early in 1985. Grant monies will be used to provide copies of the study to the Department, the Commission on Employment Policy, and the SDAs. NAB may produce additional copies with other than the grant monies and give or sell them to interested parties.

A third-year study of the PICs and SDAs is also scheduled to begin during the grant period, upon completion of the second year study. Grant monies will be used to finance a study of a representative sample of PICs and SDAs.

5a. **Mailing List System:** As part of the PIC Data Collection effort, NAB will also continue to update and maintain its mailing lists, which contain the names and addresses of the key actors involved in the JTPA system. Throughout the transition period, NAB devoted considerable efforts to the maintenance of these lists, in order to ensure both the accuracy of the data collected and so that important information reached those individuals responsible at the local level for carrying out a smooth transition to JTPA. Since then, the lists have been restructured to capture information on the newly formed PICs, SDAs, SJTCCs, and others in the JTPA system, such as:

- PIC Chairs, members and directors
- SDA Grant Recipients/Program Directors
- SJTCC Chairs/Directors/Liaisons/JTPA managers
- Local Elected Officials representing SDAs
- PIC staff
- SDA/Grant Recipient staff
- SJTCC staff
- Employment Service Directors
- Job Service Employer Councils (JSECs)

This information will be vital to NAB, the Department, and other organizations involved with the employment and training system as JTPA moves into its first year of operations, and NAB will again dedicate considerable efforts to ensuring the data in its mailing lists is kept up-to-date. Segments of the mailing list will be provided on request to interested parties, for a fee, to cover reproduction and handling.

6. **Evaluation of Selected NAB Programs:** The Clearinghouse will continue to perform assessments of selected NAB projects in order to determine the effectiveness and appropriateness of its training and technical assistance efforts. Participants in NAB-sponsored training sessions will be asked to evaluate them and the FY 1984 Summer Employment Program for Youth will be evaluated and compared to previous summer efforts. Evaluation instruments and results will be provided to the Department by NAB.

Without monies from this grant, NAB will also produce:

7. **Technical Reports:** To ensure that JTPA program administrators and staff are equipped with in-depth information about and analyses of regulatory issues, policy guidelines, and other administrative interpretations or decisions that directly affect the operation of JTPA programs, NAB will produce a series of Technical Reports. Subject matter will be selected for its relevance to the initial implementation of JTPA. Potential topics include: JTPA affirmative action provisions — state SDAs' responsibilities and employer incentives; and options for employment generating activities. Technical Reports will be available from NAB for a fee, on a subscription basis or they may be purchased individually through the Clearinghouse.

B. Periodicals

To foster exchange of ideas and experience among all the key public and private sector participants in the JTPA system, and to keep them abreast of current developments, trends and policy issues, NAB will publish the following periodicals:

1. **WORKAMERICA,** a monthly newsletter to provide key participants in the

JTPA system with timely, state-of-the-art information about important developments in the national employment and training "industry" from the private sector perspective. Aimed particularly at PIC and SJTCC chairs and top-level JTPA staff, **WORKAMERICA** will serve as a forum for information exchange within the JTPA system nationwide, reporting key events, system developments and trends. Also, it will inform readers of important policy issues and it will showcase exemplary program models that are critical to improving and building the public/private employment and training system. Subject matter will be selected for its relevance to building more effective programs and public/private alliances within the JTPA system. Contents will include:

- Descriptions of successful program models;
- Policy highlights and issues;
- Innovative examples of private sector participation and leadership in the JTPA system;
- Reports of key events and developments in the evolution of the JTPA system, particularly those that most directly impact the private sector role in JTPA.

A complimentary annual subscription to **WORKAMERICA** will be available under the terms of this grant, to each member of the NAB "core JTPA audience" identified earlier in this proposal. Others will be able to purchase subscriptions.

2. **Regional Newsletters**, designed to highlight and report information of regional interest, will be produced and distributed by four of NAB's Regional Service Offices — alone, or in partnership with other regionally-based employment and training organizations. These publications will be published quarterly or monthly and will be distributed to between 8,000 and 15,000 employment and training practitioners and business volunteers.

C. Promotional Activities: Broadening Recognition and Support for JTPA

The Job Training Partnership Act is, in many ways, a landmark opportunity for the business community to step forward and shape, in full partnership with government, the training and employment programs needed for the ultimate good of companies, communities, and individual workers. One of NAB's primary goals is to mobilize private sector support for and participation in JTPA, both to infuse the employment and training system with a business perspective, and to convince employers to train and hire economically disadvantaged persons.

Through its own nationally-orchestrated public information and advertising programs and direct communication links with corporate America, and as a result of the materials, technical expertise and access to the media it lends to locally-managed outreach programs, NAB will inform the business community of the opportunities, incentives and challenges that JTPA offers employers. Among the promotional activities NAB will conduct during the grant period as part of its 1984-1985 programs to increase private sector awareness of and participation in employment and training efforts, are:

1. **A public service advertising campaign** that will provide NAB and local users of NAB-generated materials with free network and local radio and television time, newspaper, business press, and consumer magazine space — all valued at well over twenty million dollars.

   Special emphasis will be placed on customizing materials for local use in specific, targeted service delivery areas. Also, the ad campaign will include materials which focus on the role of the state and the SJTCCs.

2. **A national major-market media program** to increase business awareness of the need for the private sector to hire and train disadvantaged persons, and to explain the role of NAB and the PICs in this process. This includes generating

coverage of NAB events by major news media, development and placement of articles on JTPA-related issues in the print media, particularly trade publications, and encouraging liaison with national business groups.

NAB will produce several ads and attempt to place print advertising in 150 major markets throughout the country. This effort alone has the potential of reaching a business readership and viewing audience numbering over ten million.

To implement these efforts, NAB activities will include:

- Conducting news conferences and background briefings on JTPA and other employment and training issues and producing speech materials for use by the NAB network (NAB Regional Service Offices, corporate representatives network, regional chairmen, etc.);
- Producing and disseminating public service advertisements to television and radio stations; and print ads to business and trade association publications;

- Producing a 14-minute movie, "When It Comes to Jobs, We Mean Business", on business involvement in the JTPA system, focusing on selected PIC chairs and programs nationwide.

- Producing press mailings of a topical nature (focusing on implementation/operations issues, in particular) for use locally by PICs/SDAs and NAB;
- Producing and distributing program-specific brochures describing NAB's national and regional activities; and
- Regular press mailings to media with information on upcoming NAB activities.

As in the past, NAB's Communications Division will coordinate with and support the public affairs and promotional activities of the Administration. This includes maintaining ongoing information exchange with the press staff at the Department of Labor and the White House. Upon request by the Department, NAB will present its overall plan for its promotional activities efforts, to the grant project officers.

D. Policy Development

A key element of the Job Training Partnership Act and the potential it holds for reform of the employment and training system, is the opportunity it offers to structure a public/private approach to the formulation of employment and training policy. An important aspect of the Alliance's commitment to strengthening the employment and training system and the role of the business community in local programming, is its continuing effort to help bring a private sector perspective to the JTPA policy making and implementation process. NAB's activities include:

- Eliciting local business views on policy issues through attendance by NAB at meetings of PICs and other local business groups, and other information exchange activities throughout the year
- Regular and timely dissemination of policy and regulation issues to businesses on employment and training related matters in order to gather their view on these issues; compiling the business views and informing Administration officials of business needs and views on employment and training policy
- Analyzing proposals for alternative and innovative uses of public and private resources to increase private sector job opportunities for the economically disadvantaged, long-term unemployed and dislocated workers.

This year, NAB will continue its efforts to help bring the business perspective to the development of employment and training related policies, primarily through the development and analysis of policy alternatives and recommendations on a variety of issues, related to the implementation of JTPA.

Specific activities to be supported by this grant are:

1. **Analyses of JTPA Implementation Issues and Problems:** NAB will help continue to inform public and private leaders of issues and implementation-oriented issues and problems as they develop. At least five analysis papers will be prepared and disseminated to DOL representatives and to the business people and organizations that were consulted during their development, in order to inform them and stimulate their thinking on federal and state policies. Papers will be on such topics as are agreed upon by NAB and the grant project officer.

2. **Business Input to Regulations:** NAB will continue to assist the Department and states in the development of regulations and administrative guidelines to guide the implementation of JTPA and related programs. NAB will concentrate on obtaining and providing to DOL, and other agencies as appropriate, input from the wider business community and public/private employment and training decisionmakers and practitioners. NAB will meet periodically or upon request with the Assistant Secretary for Employment and Training or his designees to provide this input. Written comments will be provided on draft and final regulations and selected issuances governing implementation of employment and training related programs.

3. **Operation of a Continuous Information Service on JTPA and How It Can Work:** NAB's Policy Development Office will provide cost-free telephone consultation and information services to business volunteers and professionals in the job training system and related fields on the law itself and on the JTPA system. Among the types of information provided are explanations of:

   o the structure of the JTPA legislation and its provisions, e.g., legislated roles for business, PICs, the service delivery areas, etc.

   o applicable federal regulations

   o the structure of the JTPA administrative and delivery systems; and the way they operate

   o examples of innovative programs and alternative administrative and delivery structures.

4. **Meetings with the Secretary of Labor and Other DOL Officials.** NAB will arrange meetings among the Secretary and other appropriate DOL officials and NAB, and representatives of the business community to provide top-level business input on JTPA related issues. These meetings will be held at the Department's convenience.

Additional policy-related activities that NAB will carry out without support from this grant are:

5. **Options Papers on Other Major Policy Issues:** NAB will continue to examine and analyze options on other major policy issues such as vocational education coordination with JTPA, general education quality, U.I. reform, enterprise zones, economic development, trade adjustment assistance, tax incentives, and broad industrial development strategies. At least five options papers will be produced and distributed to 2,000 representatives of business, states, PICs, education, labor, and others in the public/private employment and training system.

6. Business Currents, NAB's bi-weekly publication, which provides the business community and key members of the JTPA system with analyses of major policy, regulatory and legislative developments affecting the role of the private sector in the employment and training system will be financed with NAB's private monies. A free, annual subscription will be provided to a JTPA core audience of 3,000; others not directly involved in the JTPA system will be able to purchase a subscription to Business Currents.

V. CORPORATE SUPPORT AND DEVELOPMENT

All of the Alliance's corporate support and development activities will be financed with private monies.

TECHNICAL ASSISTANCE

Mr. O'KEEFE. Nowhere in that letter does Mr. Ong tell you NAB has served one individual. What they are providing is technical assistance to the PIC's and to the professionals that run this business.

In the hands of the States right now is 6 percent of the total appropriation that we make available to the States to run the JTPA for technical assistance purposes. The States and localities both can purchase these kinds of services and, in fact, when, as I hope you do, follow up on Mr. Ong's offer to provide you with information, ask them about their fee-for-services programs because much of what they provide to PIC's is on a fee-based basis. They have gone to a 50–50 split, and what we are saying is that demonstrates the ability of the private sector to support this kind of activity. They have accomplished that, and we hope they will be able to continue their program, but with total support from the local level and private sector.

Senator WEICKER. What he is saying to you is we have achieved this 50–50 relationship. What I am gathering from him is you are going to get past that point and, quite frankly, you will be self-defeating, you have arrived at this point, at that juncture, everything gets dropped. I don't understand that.

Mr. O'KEEFE. Mr. Chairman——

Senator WEICKER [interposing]. It is very clear to me.

Mr. O'KEEFE. I don't know how you turn it in any other direction.

ALTERNATIVE FUNDING

Senator WEICKER. What alternative funding will be available for such projects as the Human Resources Development Institute, 70,001 Limited and Opportunities Industrialization Centers?

Mr. O'KEEFE. In each of those instances, Mr. Chairman, we are asking those organizations, none of whom out of the moneys they derived from the department serve one individual, we are asking them to begin to derive their support from those to whom they are providing the technical assistance—the local service delivery areas and the States. Let me be clear that none of those contracts serve individuals.

NATIONAL ALLIANCE OF BUSINESS ACTIVITIES

Senator WEICKER. Are you terminating all support of National Alliance of Business activities?

Mr. O'KEEFE. If our budget proposals as put forward are adopted, yes, sir.

EMPLOYMENT SERVICE

Senator WEICKER. As you know, the source of employment service funding is a special unemployment insurance tax on employers, which currently has an excess balance of $600 million. Why are you proposing to rescind the $37 million added by Congress last year for the Employment Service when these trust funds have already been collected and cannot be used for any other purpose? Have you asked the States to assess the impact of rescinding these funds to see how many offices might have to be closed and how many people would lose their jobs? And if Congress does not agree with this rescission, can you assure me that you will promptly release the $37 million to the States?

Mr. O'KEEFE. Mr. Chairman, since the passage of the Wagner-Peyser amendments as part of the Job Training Partnership Act of 1982, we have already increased the dollar levels going to the employment services of the States by 14 percent.

It is for that reason when we brought forward the budget last year we proposed a steady State budget. And, in fact, the committee agreed to that. In an amendment on the floor, this $37 million was added to the Employment Service budget. We believe that the current funding level that we have now is adequate to maintain the services of that system which, as I say, has received a 14-percent increase, a very generous increase over the last 2 years compared to actual inflation of only 4 percent per year.

With respect to closing offices or laying off people, we have not surveyed the States. Under the Wagner-Peyser block grant formula, the States are free to assign these moneys within five general categories that are imposed by the regulations to provide services within their jurisdictions.

If Congress doesn't act on this, we will within the program year, as I understand it, and in these discussions with OMB, we will move the money into the hands of the States.

DISLOCATED WORKER ASSISTANCE PROGRAMS

Senator WEICKER. You are proposing a rescission of half the 1985 appropriation for dislocated worker assistance, due to the large amount of unspent funds from prior appropriations. Give me the reason for the slow spending in this program and do you expect rates of spending to increase as the program becomes more established, and how do you avoid penalizing those States that have been doing a good job spending their dislocated worker allocations in a timely manner?

Mr. O'KEEFE. Mr. Chairman, as you are well aware, the Dislocated Workers Program is still a relatively new program. When first enacted in 1982, we had really no experience with these types of activities in any major way. Then, before the Job Training Partnership Act was fully functional, the Congress appropriated about $110 million in an early-on response to the recession we were then experiencing.

In the absence of systems available to plan and deliver services, that $110 million was not expended early on in the program. Subsequently, as the program began building up, and we estimate now we are at full service levels, additional moneys did accumulate. We do believe at the present time, the program is hitting an expenditure level of about $165 million to $170 million a year and will serve approximately 150,000 participants in each of the years covered by this budget.

Mr. Sourwine. My understanding is every State will be cut because there is a formula allocation in the law, if one particular State has spent a good share of their money, they could have a big cut in that State. Is there a way to resolve that problem?

Mr. O'Keefe. There is the statutory formula to distribute the funds, and the Secretary also has the ability to reserve up to 25 percent of the appropriated moneys which on this proposal would be about $25 million. We think that those reserves will give us the opportunity to smooth out those valleys that would occur if a State had had a very aggressive spending posture over the last 2½ years.

QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator Weicker. I have further questions for response to the record.

[The following questions were not asked at the hearing but were submitted to be answered for the record:]

QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

APPRENTICESHIP TRAINING

Question: What plans do you have to revitalize the apprenticeship program?

Answer: The following plans are being considered:

- Modification of the automated data processing system for the registration of apprenticeship programs and apprentices that will supply current statistical data for management, research and promotional efforts;
- Development and implementation of a plan for closer coordination and cooperation with the vocational education activities of the Department of Education;
- Development of improved staff training;
- Development and implementation of more effective promotional techniques;
- Improved management of operations with closer national office monitoring of local activities and required redirection of efforts as appropriate for efficient and productive operations;
- Establishment of closer working relationships with the Job Training Partnership Act organizations; and
- Increased emphasis on responsibilities for oversight of State agency operations.

Question: If Congress does not approve your requested rescission of 30 Bureau of Apprenticeship and Training staff, how will you utilize these resources?

Answer: At the present time, the current level of staff is able to adequately service the needs of the program sponsors. In the event the rescission request is not approved, an assessment will be made at that time for the utilization of those positions.

Question: Please provide, for the record, a summary/analysis of the various outreach programs of the Bureau of Apprenticeship and Training (BAT) that are currently directed toward women and the minorities

Answer: Currently, the Bureau of Apprenticeship and Training isn't directly involved in any outreach programs. However, the Bureau stresses and encourages the hiring of women and minorities. Also our 29 Code of Federal Regulations (CFR) 30 Manual on Equal Employment Opportunity in Apprenticeship and Training, under Section 30.4, requires a sponsor's committment to equal employment in recruitment, selection, employment, and training of apprentices which shall include the adoption of a written affirmative action plan.

Question: How, and in what manner, have these outreach efforts been strengthened since 1981?

Answer: Efforts have been strengthened through the affirmative action plan which included procedures, methods, and programs for the identification, positive recruitment, training, and motivation of present and potential minority and female (minority and non-minority) apprentices including the establishment of goals and timetables.

An acceptable affirmative action plan must also include adequate provisions for outreach and positive recruitment that would reasonably be expected to increase minority and female participation in apprenticeship by expanding the opportunities of minorities and women to become eligible for apprenticeship selection.

Question: While admittedly there may be some overlap of administrative jurisdiction with respect to these outreach programs, would you please develop and provide for the record an analysis of the cost of each of these programs annually since 1979.

Answer: As noted above, the Bureau of Apprenticeship and Training does not directly finance or participate in outreach programs. Instead, the affirmative action plans required of sponsors are the current method of outreach whereby women and minorities can be included in apprenticeship programs.

Question: Please provide, for the record, a statistical breakdown of apprenticeship training by (a) race, (b) sex, and (c) type of skill or craft training being sought.

Answer: Presently, the Bureau of Apprenticeship and Training does not have a statistical breakdown of apprenticeship training by race, sex, and type of trades being sought by minorities and women. For the record, we are attaching a table on percent of minority and female apprentices from Fiscal Years (FYs) 1979 - 1985.

PERCENT OF MINORITIES AND FEMALES
FYs 1979 - 1985

FYs	Minorities	Females
FY 1979	17.5	4.1
FY 1980	17.1	4.8
FY 1981	18.4	5.7
FY 1982	21.5	5.6
FY 1983	20.2	6.6
FY 1984	18.9	6.7
FY 1985	19.6	7.1

NATIVE AMERICAN JTPA PROGRAMS

Question: The Department's report to the Committee on DOL's administration of Native American programs identified nearly a dozen different staff units, including at least eight in ETA, that have authority over Indian grantees. Is there any one official in charge of all these different ETA offices? Who's really responsible for the Department's dealings with Indian tribes and organizations?

Answer: Under the Job Training Partnership Act, as under previous training and employment legislation, only one official--the Assistant Secretary for Employment and Training--has been delegated by the Secretary the overall responsibility for specific programs. As the report indicated, the present organizational structure of the Employment and Training Administration (ETA) assigns responsibility for each aspect of a program's administration to the specific organizational unit with expertise in that functional area. This functional distribution of authority applies to all programs administered by ETA. These organizational responsibilities are clearly defined. However, within the Office of Job Training Programs, there is a specific Division of Indian and Native American programs. The head of this office and his staff are the primary staff responsible for assuring that these functions and offices are effectively coordinated. The Federal Representatives in ETA's Division of Native American Programs assist the Indian grantees by facilitating their dealings with the various organizational components of ETA.

Question: How many different staff people in all these different ETA offices are involved in dealing with Indian grantees? Could you explain to the Committee just how much ETA program administration money is involved in funding all these different positions?

Answer: The following organizational entities are assigned responsibility for the Native American program. A total of $3,017,000 is funded from the program administration account for these different positions.

Office	No. of Employees	Percent of time	No. of FTE
Office of Job Training Program	23	100%	23
Office of Program and Fiscal Integrity	64	58%	38
Office of Financial Control and Management Systems	48	26%	12
Offices of Strategic Planning and Policy Development	4	45%	2
Total	139		75

Question: The report admits that there have been short-term problems because of recent ETA reorganization and RIFs. With further ETA staff reduction projected in the FY 1986 budget request, can the Department provide any assurance to the Committee that such disruptions will not recur?

Answer: The Department does not foresee the Native American program staff being affected by the staff reductions proposed in the Fiscal Year 1986 budget request. While there will be reductions in specific programs areas in the National Office (Job Corps, Work

Incentive (WIN), Pilot and Demonstration Programs and Technical Assistance and Training activities), other areas and programs will be minimally affected.

The Department will concentrate on placing affected employees in other areas and on out placement. Also, the attrition occurring during the year will permit the reassignment of staff working on the impacted programs to other vacancies within the agency.

JOB TRAINING FOR INDIANS AND MIGRANTS

Question: To what extent has the Labor Department met the Job Training Partnership Act requirement that the Native American and Migrant and Seasonal Farmworker programs be administered by personnel having "particular competence in this field?"

Answer: The JTPA directs the Secretary of Labor to establish procedures (including personnel having particular competence in these fields) for the operation of Native American and Migrant and Seasonal Farmworker employment and training programs authorized under the Act. The Act does not require that only Native Americans may be employed to administer that program; nor does the Act require that all persons employed must have "particular competence" in these fields. Rather it directs the Secretary to establish an administrative procedure which includes personnel having "particular competence" in these fields. Although the Act does not provide any definition of this term, ETA interprets it to require personnel having knowledge of employment training programs and understanding of the special circumstances faced by participants in these programs.

With respect to the Indian program, the Division of Indian and Native American Programs (DINAP) is organized into three units, headed by the Director of DINAP, a GM-15 with 8 years of experience in Indian and Native American Programs. A GM-14 supervisor heads each of the three units in the division. One of the supervisors, a Native American, has been with DINAP for over 10 years. Another supervisor, with over 12 years of experience in the employment and training field, has been assigned to DINAP for two years. This includes experience in the Farmworker and Job Corps programs which--like the Indian program--are also special targeted activities. The third GM-14 supervisor has over 15 years of experience in the employment and training field. Of the 18 staff members who deal with the grantees, three are Native Americans. In addition, DINAP is currently recruiting several highly qualified staff persons under Inter-governmental Personnel Act (IPA) agreements with Indian grantees for the purpose of further enhancing the effectiveness of the administration of the program.

With respect to Farmworker programs, all staff associated with the program meet the Handbook X-118 prerequisites established by the Office of Personnel Management. There have been staff shifts as a result of reorganizations. Some individuals, while qualifying for their positions, were initially unfamiliar with the specific aspects of the activities and operation of their newly assigned offices. The ETA management made a determined effort, through staff orientation and training, to facilitate and expedite the adjustment process for these employees. We believe that all such individuals are now competently able to carry out their responsibilities.

INDIAN PERSONNEL

Question: Last year I pointed out the fact that of a total of 25 employees working for the Division of Indian and Native American programs only 4 were Indians, down from 13 in 1981. I was told that you would do everything you could to keep the number of Indian employees representative and that you did not think any of those Indians would lose their jobs because of a planned reduction-in-force. Can you tell us how many employees currently work for that division and how many of those employees are Indians?

Answer: A total of 23 employees currently work for the Division of Indian and Native American programs. This total includes three Indian employees, down by one from last year's figure due to the resignation of an Indian employee in 1984.

JOB CORPS

Question: Could you explain why there is such a discrepancy between the Department's perception of staffing needs and that identified in the internal study?

Answer: A number of management changes were implemented to simplify procedural requirements and streamline operations. Financial reporting by regional offices was automated; the procurement process was revised so that center operations contracts could remain in place for five years instead of 3 years (requiring less frequent work-intensive competitive procurement processes); reporting procedures were simplified; and efforts undertaken to automate corpsmember selection, assignment and transportation functions. Based on these changes, we determined that lower staffing level was sufficient to carry-out all essential procurement oversight, reviews and monitoring functions.

Question: How can you explain the Department's position that a staff level of less than 200 is adequate, in light of significantly higher staff levels for a significantly smaller program in past years?

Answer: During the late 1970's, Job Corps Federal staffing levels were increased to implement the large expansion of the Job Corps program authorized by Congress. National and regional offices had duties associated with identification and acquisition of sites, rehabilitation of facilities, selection of vocational offerings for new centers and numerous activities relating to readiness and opening of new centers and the need for increasing numbers of applicants. These duties were over and above those associated with maintenance of the ongoing program at existing centers. Once the expansion was completed and the program reached a relatively "steady state" of operation, the number of staff needed for oversight and administration of the program decreased.

With actions initiated to automate routine functions and streamline procedural requirements noted above, we believe current staffing levels are appropriate for all Federal management, review, monitoring, procurement and oversight responsibilities.

JOB TRAINING PARTNERSHIP ACT

Question: What impact will Labor's "Small Region Initiative" have on its ability to evaluate and provide technical assistance under JTPA? What presence will ETA maintain in the three affected regions, if any?

Answer: With adequate lead time, it is well within the Employment and Training Administration's (ETA) management capability to continue to carry out its responsibilities without undue interruption and with minimum disruptions to employees and grantees alike.

In the affected regions, the Bureau of Apprenticeship and Training field offices will remain in the same locations with current staff. At this time, the Job Corps staff in the three closing regions will remain until June 30, 1986, the phase out date of all Job Corps Centers. Except for these two exceptions, there will be no Employment and Training Administration presence in the affected regions.

Since ETA's primary role is oversight and administration of grants to States and program deliverers; ETA does not engage in providing services directly to the public for which accessibility and convenience of clientele would be an important consideration. The preponderance of ETA's daily activities are focused on agencies of State government.

Question: How many ETA positions will be eliminated if Job Corps is eliminated and the regional offices in Boston, Kansas City, Seattle are closed? How many ETA employees would actually be separated?

Answer: A total of 253 positions will be abolished if Job Corps is eliminated and the regional offices in Boston, Kansas City and Seattle are closed.

The number of ETA employees that will be actually separated will depend on varying factors such as the attrition rate, transfers, retirements, etc. Although there will be some unavoidable effects on ETA employees, efforts will be made to keep it to a minimum. The Agency will concentrate in placing employees in other areas of ETA and the Department of Labor and on out placement.

RAILROAD UNEMPLOYMENT INSURANCE

Question: The Administration has proposed to fold the separate railroad Unemployment Insurance program into the Federal/State system. Will rail workers receive about the same benefits that they now receive under their separate program?

Answer: Since benefit formulae vary from State to State, a single categorical reply is not feasible. On average, more workers will receive higher benefits than under the railroad programs. In fact 42 States have maximum benefits greater than those under the railroad program. In the few States with lower maximum benefit amounts benefits may be somewhat lower.

Question: What administrative problems do you anticipate in processing rail workers claims, particularly those for partial unemployment?

Answer: We do not foresee any major problems. The Administations proposal is based on the well established principles under which State UI programs have operated successfully for decades. Much greater numbers of State and local government employees and agricultural workers came under State UI coverage in the systems last major expansion in the late 1970's with no serious administrative problems. Thus, we expect no major obstacles to the extention of coverage to railroad workers.

All State laws include provision for the payment of partial benefits and, while the State formulae are different than the partial formula currently used by the rail system, we anticipate no administrative difficulties in processing these partial claims.

UNEMPLOYMENT INSURANCE GRANTS TO STATES FOR ADMINISTRATION

Question: Title III of the Social Security Act authorizes payment to each State such amounts deemed necessary for proper and efficient administration of unemployment insurance. In general, what are the factors used to calculate allocations to the States for the administration of unemployment insurance?

Answer: There are four sets of factors which are used in the allocation process: 1) estimated UI benefit payment and tax collection workloads; 2) unit labor time; 3) salaries and hours worked; and 4) overhead and support relationships. The Department of Labor, in consultation with the State Employment Security Agencies, forecasts the major benefit payment and tax collection workloads for the upcoming fiscal year. These forecasts generally use time series analysis, but embodied in these forcasts are the anticipated level of unemployment, the number of persons in covered employment and the number of employers participating in the UI system.

Unit labor time is calculated from a work measurement system, reflecting differences in State law and procedure to accomplish various tasks in paying benefits and collecting taxes. Work measurement studies are conducted in each State periodically, and these results, with some constraints, are incorporated into the allocation process.

Allocations also reflect the salaries and hours worked per year in each State. Data are collected from each State, and the allocation is directly adjusted for these data.

Finally, support and overhead are calculated in relation to the anticipated direct labor costs. In this way, appropriate indirect labor cost and capital cost can be added to direct labor costs.

Question: Over a typical economic cycle, do some States get more or less than their employers pay in taxes for administration? If so, why?

Answer: Yes. States which receive more than their employers pay in taxes may differ from the national average in some or all of the following characteristics. They may have higher than average State salaries and benefit costs, a more complex State UI law, and higher than average unemployment over the period measured. States which receive less than their employers pay in taxes may feature lower than average State salaries and benefits, a less complex State UI law, and/or lower than average unemployment over the period.

UNEMPLOYMENT INSURANCE DEBT

Question: At the end of Fiscal Year 1984, the Extended Benefits program owed about $4 billion to the General Fund and the State Unemployment Insurance programs owed about $9 billion to the Federal Government. When do you project these debts to be repaid in full?

Answer: Under current ecomomic assumptions, the Extended Benefits Account (EUCA) debt is projected to be repaid by the end of Fiscal Year (FY) 1986. The State debts are not expected to be fully repaid within our projection period (FY 1985-90). However, the State debts are projected to be reduced to $450 million by the end of FY 1990.

Question: If a recession occurs in the next five years, will you need additional advances from the general fund?

Answer: In the event of a recession, additional general fund advances could well be needed.

RETIREMENT COSTS OF STATE EMPLOYMENT AGENCIES

Question: The fiscal 1985 appropriation included $3.8 million for amortization payments to certain State employment service retirement plans. (Senator McClure's amendment) When do you plan to release these funds, which are currently being deferred?

Answer: No decision on the timing of release of this deferral can be made at this time. The Administration has submitted a supplemental requesting withdrawal of these funds. The proposal was not lightly made and it is hoped the Congress will give it serious consideration.

A decision regarding release of funds will be made in ample time for any funds released to be used as intended by the statutes governing the program.

Question: How much do you estimate will be needed, State-by-State, for these payments in fiscal 1986.

Answer: Based on the most current information available, it is estimated that it would cost $4,800,000 in 1986 to amortize the Employment Service portion of the unfunded liability based on a thirty year schedule. This amount includes $643,000 for Idaho; $857,000 for Nebraska; $497,000 for North Dakota; $999,000 for Oklahoma; and $1,804,000 for Utah. Over the remaining estimated 25 years of the amortization schedule, these annual payments would total $120 million for the Employment Service.

No funds are being requested for this purpose because the basic

ES grant and management flexibility provided the States under Section 6 of the Wagner-Peyser Act, as amended, results in sufficient amounts to meet retirement plan needs in these five States.

The Unemployment Insurance portion of the unfunded liability is funded as part of each States' personnel compensation rate and is therefore not included in the above numbers.

Question: What will be the total cost for these payments over the next 30 years?

Answer: The State agencies have been amortizing their unfunded liabilities since the inception of the plans. The enhancements made to the plans in the middle and late 1970's to make them comparable to the Civil Service retirement plan greatly increased the unfunded liabilities. The cost of living enhancement began a new thirty year amortization cycle for these States. Based on the current valuation and economic assumptions used by the insurance carriers, total outlays remaining to be paid would be approximately $246.8 million pertaining to the unfunded liability. This assumes that all States have twenty-five years remaining on their thirty year amortization schedule. It is estimated that the portion relating to the Employment Service is $120 million.

Question: Why does the Administration oppose budgeting for these cost?

Answer: Until the passage of the 1982 Amendments to the Wagner-Peyser Act, there was no issue concerning the independent retirement plans. The issue arose when the ES funding formula changed from an administrativiely determined staff year basis formula to a statutory formula. The staff year basis recognized each States' personnel compensation cost, including retirement, in determining a States' annual allocation whereas the statutory formula is based on relative shares of the prior year allocation, civilian labor force data and number of unemployed to determine State allocations. The statutory formula does contain a hold harmless provision which provides a State at least 90 percent of its relative share of the prior year.

The Department believes that the five State Employment Security Agencies (SESAs) should fund their retirement costs within available resources for several reasons. First, the initial application of the Wagner-Peyser formula used each States' FY 1983 funding level as a factor in the allocation and the annual amortization payment was made by each of these States from that allocation. Thus, a portion of the annual amortization costs is already built into the formula for subsequent years allocations through the hold harmless provision. Second, the States now have total flexibility to use Wagner-Peyser resources as they choose, including using resources to fund their retirement costs. Third, the States have the option of amending their retirement plans to reduce costs to live within existing resources. South Dakota, the only other State with an SESA independent retirement plan, took such action. The amendment to their plan eliminated the unfunded liability of their plan. Fourth, approximately 50 percent of the annual amortization costs of the unfunded liability is associated with the Unemployment Insurance program. These costs are funded annually as part of each States UI allocation. For these reasons, the Department feels the additional $3.8 million of funds are not required and has submitted a supplemental requesting withdrawal of these funds.

Question: Can't you work out agreements with the States to administratively accommodate these extraordinary retirement costs?

Answer: The Department believes the resolution rests in the hands of the States to ultimately make the decision as to whether they can afford to maintain these retirement plans. States have the option of using their Wagner-Peyser allotment, modifying their plans to reduce cost, or seeking non-Federal resources to maintain these plans.

AUTOMATION GRANTS

Question: My home State of Connecticut indicated they have not yet heard from you about their application for funds to automate Unemployment Insurance Service Operations. When do you plan to award these grants for computerization of State and local unemployment offices.

Answer: The announcement of awards dated March 14, 1985 provides $536,180 for the State of Connecticut.

Question: What total amount did the States request, and how much do you plan to award?

Answer: Thirty-five States submitted fifty-nine proposals requesting a total of $45,202,116. The 1985 awards total $19,992,908 to those States submitting proposals which best meet the established funding criteria.

Question: What do you estimate to be the long-range cost to complete automation of State Unemployment Insurance agencies, and how much would be saved in both reduced administrative and benefit costs?

Answer: The automation of the UI program is not a one-time problem with a one-time solution. Automation of the UI program--which leads to real efficiencies in program operation--is an ongoing task as automation technology constantly changes.

The administrative and Trust Fund savings estimated by the States in their proposals indicated that for every dollar of automation, two or more dollars can be saved. We expect this trend to continue for the next several years. However, the savings would be expected to decline as we begin replacing the equipment and software which becomes obsolete.

EMPLOYMENT SERVICE STAFFING LEVELS

Question: How many staff-years are funded by current employment service appropriations?

Answer: There are no estimates of staffing levels funded by current employment service appropriations because with the passage of the Wagner-Peyser Amendments in 1982 funds are now distributed by a formula using economic factors, which in effect obviates the need to manage staff levels. Each State determines its staffing needs in response to the type of program services it plans.

Question: How has the level of employment service personnel involved in direct labor exchange functions fluctuated in recent years?

Answer: The Employment and Training Administration (ETA) is unaware of any major fluctuation of employment service personnel involved in direct labor exchange functions. Phase one, draft findings of the assessment of the implementation and efforts of the JTPA Title V Wagner-Peyser Amendments, conducted by MACRO Systems, Inc. under contract to ETA, suggest that the formula funding provisions under the new Amendments has shifted resources among the States but this has not caused any major fluctuation in the personnel involved in direct labor exchange activities. The Amendments delineate more sharply the purposes of Wagner-Peyser funding, that is to finance the basic labor exchange activities in the States. Some States have lost resources due to the formula shift but they have maintained their ability to provide basic employment services through a variety of ways: reducing overhead, enhancing through automation, closing low workload offices, improving efficiencies of day-to-day operations, etc.

Nationally, the budget, which has been increased from $647 million in Fiscal Year 1983 to a request of over $755 million for Program Year 1986, has been intended to maintain the same level of effort from year to next and we know of no evidence to the contrary.

Question: Have the employment service amendments in JTPA resulted in a net increase in the amount of funds and number of ES personnel available for actual labor exchange activities?

Answer: Allotments to States for labor exchange activities as authorized in Section 7 (a) of the Wagner-Peyser Amendments were $530,955,000 for the nine month transition period leading to Program Year (PY) 1984 and $740,398,000 for PY's 1984 and 1985. The request for PY 1986 is for $755,200,000. This comparable activity was funded for $634,661,352 in Fiscal Year 1983, the base year preceeding implementation of Wagner-Peyser Amendments. The percentage increase from 1983 to 1985 has been greater than the rate of inflation.

Question: What non-labor exchange functions that the ES used to perform are no longer being done by ES personnel?

Answer: All of the non-labor exchange functions for which the Department of Labor has responsibility are being performed in support of labor exchange services. The difference is that these activities are now funded under authority of Section 7(c) of the amended Wagner-Peyser Act. These activities are separately negotiated and funded in each State in a grant agreement called the Employment Service Reimbursable Grant. States negotiate a funding level that is commensurate with the workloads that they agree to perform and the grant is, subsequently, awarded.

Question: Are State and local agencies reimbursing the employment service for these types of activities?

Answer: The Department of Labor provides funding for work performed outside the regular basic labor exchange function and for which the Department has responsibility. This funding is through grant agreements negotiated with States under authority of Section 7(c) of the amended Wagner-Peyser Act. The Department does not require States to report other contracts or grants that they may have negotiated with other entities and therefore we have no information on these other "types of activities."

EMPLOYMENT SERVICE SET-ASIDE FUNDS

Question: How are Governors spending their 10 percent set-aside funds?

Answer: The Phase One findings of the MACRO Systems, Inc. evaluation on the JTPA Amendments to the Wagner-Peyser Act, indicate that in States with large funding gains, the 7(b) funds (Governor's 10%) are used primarily to support experimental projects designed to improve ES operations or ES-JTPA coordination in the long-run. Among the States with only moderate gains, or with reduced resources, about one-half reported that some 7(b) funds were being utilized in a manner that helped to support basic ES operations.

Question: Are these funds being spent within the public employment service system or are they being used for related programs, such as activities under the Job Training Partnership Act?

Answer: As previously indicated, States with large funding gains, as a result of the new allocation formula, are using these funds primarily to support experimental projects designed to improve ES operations or ES-JTPA coordination. This is being accomplished, in some cases through the employment service system and in other cases through other avenues such as State economic development agencies.

EMPLOYMENT SERVICE CLIENTELE

Question: Has the needs-based formula, which allocates ES funds to States according to unemployment rates and size of civilian labor force, had any effect on the type of clientele served by the Employment Service?

Answer: Data reported in the Employment Service Automated Reporting System (ESARS) shows no changes in client characteristics. In sample States surveyed by MARCO Systems, Inc. the amendments, in general, have had little significant effect on basic ES services to clients except for the new funding provisions which have affected the level of client service. There have been few, if any, changes in ES employer services, minimal impact on ES services to veterans and little, if any, impact on Unemployment Insurance claimants.

Question: What criteria are used for allocating the 3 percent of Employment Service funds reserved by the Secretary of Labor?

Answer: For the 9-month transitional period and Program Year (PY) 1984, the Department maintained a two-step procedure. In the first step, States whose relative share of resources decreased from their prior year's share and whose civilian labor force (CLF) was below one million and also below median CLF density (a proxy for sparsely populated States) were held harmless at 100 percent of their prior year's relative share. The balance of this set-aside was distributed in the second step to all States who lost in relative share of resources from the prior year.

No decision has been made regarding the continuation of this formula for PY 1985. The Department has sent letters to the Governors soliciting comment on funding methodology expressed in three different options. These options were published in the Federal Register on .

April 30, 1985 and also communicated to all Governors with their preliminary planning estimates for PY 1985. Allotments will be published on or before May 15, 1985.

QUALITY CONTROL PROGRAM FOR UNEMPLOYMENT BENEFITS AND REVENUES

Question: You are requesting a $17 million increase for expansion of Unemployment Insurance Quality Control program--nearly double current expenditures. What is the Quality Control program supposed to accomplish?

Answer: The Quality Control (QC) program is designed to improve accuracy and to reduce errors in the Unemployment Insurance (UI) program by providing a tool for use by State managers to identify and correct errors and inefficiencies in their UI programs. The QC program will thus provide States with the means and information they need to identify and correct procedures and other problems leading to errors in the payment of benefits and collection of taxes.

Even relatively small reductions in error rates achieved as a result of the introduction of the QC methodology will provide a positive return on the investment in QC. A reduction of only one percentage point in the overall error rate would produce an estimated $140 million in outlay savings in one year.

Question: What new information do you expect to gain which you don't already know from the Random Audit program?

Answer: We expect to gain information detailed and precise enough to use for corrective action in areas already covered by Random Audit and in new areas.

The Quality Control (QC) program will build on the knowledge base obtained from the operation of the Random Audit program. QC will expand the scope of data collection, provide for greater precision and reliablility of estimates, and through automation make QC data readily available to State managers for timely analysis and necessary corrective action. The Random Audit program demonstrated that a sampling methodology could be used to identify the level of errors occurring, but did not pinpoint problems with sufficient precision to provide States with adequate data to support corrective action.

QC will overcome many of the weaknesses of the Random Audit methodology and will expand into areas of the Unemployment Insurance (UI) program which Random Audit did not cover, including the payment of Interstate benefits and the collection of UI revenues. QC will accomplish this through use of a set of revised data elements, a high level of automation throughout the system, an expanded sample size, and a series of pilot tests to develop techniques needed to refine the basic QC approach and expand its coverage to other major program areas.

QUALITY CONTROL PROGRAM FOR UNEMPLOYMENT BENEFITS AND REVENUES

Question: What have you done to fix the problems found by the Random Audit program?

Answer: As a result of Random Audit findings many States have taken a number of actions to tighten administrative procedures and reduce improper payments. Examples include:

- Procedures modification and forms revisions to clarify requirements;
- revision of benefit rights interview to clearly communicate the individual UI eligibility responsibilities;
- increased inter-agency coordination to more closely monitor claimant "work search" activity; and
- revised agency policies regarding acceptable "work search" efforts by individuals.

While the Department strongly encourages States to initiate appropriate corrective action in response to problems identified through this voluntary program, final responsibility for such action rests with the States.

Question: Instead of nearly doubling the budget for more data collection, why don't you recommend improving activities which help reduce erroneous unemployment compensation payments, such as work search and timely reporting of wages by employer?

Answer: We believe the system needs more specific information on how to improve productive work search and wage reporting--information which we can glean from QC.

The budget for the QC system is modest compared to overall UI administrative costs. The results of this investment should greatly improve the ability of the States to target existing administrative resources to prevent errors, thereby improving program efficiency and ultimately reducing costs.

Information gained through the QC program is largely unavailable through the normal reporting process within each State. Doubling the resources to be used for QC data collection adds only about 1 percent to the current level of UI administration resources. The returns of this small investment on the management of State UI resources, currently funded at over $1.5 billion, is expected to have a high benefit cost ratio.

Question: Will the Quality Control system eventully lead to sanctions against States with high error rates?

Answer: The Department has no plans to implement fiscal sanctions as part of the UI Quality Control system. The UI Quality Control system is directed towards providing States with a diagnostic tool for identifying and correcting errors to improve program quality and integrity and reduce errors. We believe the States, which finance the bulk of UI benefits, will have a very strong incentive to act on the information their quality control programs provide.

STATE INPUT TO QUALIFY CONTROL PROGRAM

Question: To what extent have you obtained the assistance and guidance of the States in developing the Quality Control program?

Answer: The Department has conducted extensive consultations with States on the Quality Control (QC) design and will continue to solicit State views and comments on major QC issues and implementation as the system evolves. These consultations have occurred through the Federal Register publication and comment process; formal and informal discussions with State directors; multiregional meetings and workgroups held specifically to elicit State comments on the draft QC design. The State input we have received has been invaluable throughout the QC design process. States also have been given a standing invitation to provide staff to work in the National Office to assist in designing and implementing both QC and other pilot projects to be used to improve and expand on the QC methodology in the future.

Question: How do you expect this program to work without active State cooperation?

Answer: Quality Control (QC) cannot succeed without active State cooperation. State commitment and support in conjuction with both the design and operation of the QC program are essential to its success. Over the past year, extensive efforts have been made to assure that States understand the importance of and need for the program, and become active participants in the development of the QC design. The Department believes that the active interest States have taken in the QC design has had a very positive effect on the program and that this interest will also prove to be critical to its success once QC is implemented.

Question: Do you plan to provide financial incentives to States which improve their productivity and reduce errors?

Answer: At the current time there are no plans to offer financial incentives to States under the Quality Control System. A strong incentive to the States is built into the system: by identifying problems and correcting them, leakages from the system will be reduced, benefits will be paid in a timely and proper fashion to those who meet the criteria, and taxes will be paid by employers when due.

NON-PERSONAL SERVICES

Question: Some States believe that they suffer from structural inequity in a Department of Labor formula which allocates administrative funding for State unemployment offices. Please describe how Unemployment Insurance personal and non-personal costs are funded.

Answer: Unemployment Insurance personal costs are allocated on a formula basis using workload and measured unit cost values to determine the number of staff required to accomplish the projected workload. Workloads are projected using various actuarial models based on projected unemployment rates and unit costs based on State cost model studies. Support staff are allocated as a percentage of the number of staff derived through the workload formula. State staff based on workload is then multiplied by the specific salary and benefit rate for that State to determine total dollars to be allocated to a State.

Nonpersonal services (NPS) resources are distributed based on each States allocated NPS unit cost for the prior year increased by the budget year inflation factor multiplied by each States total base staff. A hold-harmless provision is applied to insure that no State loses significant resources which might adversely affect State operations.

Question: Are non-personal service funds allocated in direct proportion to staffing dollars?

Answer: No, nonpersonal service (NPS) resources are distributed based on each States allocated NPS unit cost for the prior year increased by the budget year inflation factor multiplied by each States total base staff. A hold harmless provision is applied to insure that no State loses significant resources which might adversely affect State operations.

Question: If so, does this result in an underfunding of nonpersonal services such as computer operations and telecommunications?

Answer: The Employment and Training Administration does not believe that the nonpersonal services allocation underfund State computer operations or telecommunications. State agencies receive a total amount of resources for nonpersonal services and have complete flexibility for the management of those resources. State agencies are not held to any specific line item budgeting for NPS (e.g. supplies, travel, etc.). This degree of flexibility allows State managers to operate their agencies more effectively.

AUTOMATION GRANTS

Question: What incentives exist which encourage States to undertake initiatives to gain operating efficiencies through automation?

Answer: Several incentives now exist to encourage States to automate. The principal financial incentive is a recent determination by the Employment and Training Administration (ETA) to provide States the authority to convert staff years to nonpersonal services (NPS) funds. This is accomplished according to individual State plans and guarantees that approved NPS increases are maintained in succeeding fiscal years.

ETA has also recently authorized States to use Reed Act funds, which had typically been limited to real estate acquisition, for the procurement of automated data processing equipment. Use of Penalty and Interest Funds and the UI Automation Support Account are other sources of support for automation. Non-financial incentives for States to improve the efficiency of their operations through automation include the Secretary's standards, desired levels of achievement for UI program operations, and employer and public pressure.

RECAPTURING FUNDS AND BAILING OUT STATES

Question: Why has the Department adopted the policy of quarterly recapturing funds and then bailing States out at the end of the year if funds run short? How does this policy encourage States to adopt good management practices or to make improvements in the administration of the UI system?

Answer: The Department established the current recapture policy in order to assure that all available base-financed resources are used before providing contingency resources to a State agency. The recapture policy has promoted better financial management by States in terms of planning and budgeting their available resources.

The Department does not believe in a policy of bailing out State agencies who overexpend their budgets. In Fiscal Year 1984, however, the Congress did appropriate $20 million for States having nonpersonal services (NPS) shortfalls. The Department also had additional base resources which were provided to those States still experiencing NPS problems after the $20 million distribution. The Department feels that action did not represent a bail-out but an attempt to follow the Congressional mandate of providing funds to States with NPS shortfalls.

QUALITY CONTROL PROGRAM

Question: In your May 23, 1984, response to recommendations made to the Secretary of Labor in a GAO report entitled "An Assessment of Random Audit--A New Department of Labor Program to Improve the Accuracy of Unemployment Insurance Benefit Payments" GAO/HRD-84-24, March 30, 1984, you stated that the Random Audit program served as a point of departure for bringing about program improvements under Quality Control. Please describe in quantifiable terms what program improvements will be achieved under this program.

Answer: The Quality Control system will provide States with a variety of improvements over Random Audit as follows:

- An average annual sample of 1,200 cases per year or a doubling of cases which will allow States to pinpoint problems;
- an enhanced list of data elements with a 50 percent increase in information available that will allow States to better analyze findings;
- a comprehensive system that in addition to regular programs, will include revenues (with increases in magnitude similar to what is being done for benefits), interstate claims (with increases of five percent), and denials (with increase of fifteen percent);
- immediate error reports (minutes vs having to wait months for such information) and flexibility to array data in a form most useful to State managers;
- the ability to better identify where the errors are occurring; instead of being able to identify only the dominant reason for an error, a State will now be able to identify related causes;
- hardware (micro computer for each State) and software which will improve their ability to document, track, analyze and followup on problems identified through QC;
- flexibility to identify and collect additional data for State purposes and;

- the 1986 budget provides for an increase of almost $18 million and 428 State staff for the Quality Control program.

Question: Please describe how the Quality Control program will accomplish these improvements

Answer: The following improvements are expected to be accomplished with the establishment of the Quality Control program:

- Hardware & Software. States will be provided with a micro computer plus a printer and software to run on the machine as well as terminals for outstationed staff. The software will be menu driven to allow QC staff to easily input their data. It will have utility packages built in so that investigators and supervisors can determine their progress in completing cases and spreadsheet capabilities so States can manipulate the data and relate common elements together.

- Data Instrument. Improvements were built into the instrument in terms of how to frame questions based on input from the Bureau of Census and a nationally known firm in the data field. Duplications or elements of little value were dropped. Elements needed for verification and available on the States's mainframe computer will be downloaded to the micro computer being provided thus saving investigator and coding time requirements.

- Management Reports. States will be able to design whatever format is desired for managers at various levels based on their needs. They can adjust such reports as the need arises.

- Error Reports. The software provided will allow States to calculate their own error rates. In addition, if there are any problems with the establishment of such rates for an improper sample, they will receive automatic feedback so that only proper judgements are made.

- Error Identification. In contrast to the Random Audit program, States will now be able to identify up to three errors for each case. This will allow States to look beyond the overriding error to determine what additional issues exist on each case.

- Pinpointing of Errors. With the increase in sample size to an average annual sample of 1,200, States will have sufficient information to pinpoint problems and trends that will allow them to structure effective corrective actions. Administrators can make decisions with the assurance that the errors identified are directly related to need for corrective actions.

- Comprehensive System. Incremental improvements will be made to the system by testing various functions not presently covered by the random audit or core QC systems. Pilots will be conducted for one year periods to determine how these functions can be best built into the system. After assessment they will become part of the ongoing system.

- State Information. States will be able to identify data that is critical to their decisions on a separate data field. For the first time they will be able to identify where the errors are occurring, who is committing the errors, etc.

Question: To what extent have the States been involved in the development of this Quality Control system and how would you characterize their reaction to the program.

Answer: The States have been involved with this program from the inception. In the design of any new program of this magnitude, there will be those who readily embrace the concept, those who take a wait and see attitude, and those who are skeptical. The Department believe that only a small minority of States fall in the latter category.

Most States have actively participated in discussions and workgroups on the design of QC. The Department believes such participation has measurably improved the program and is indicative of the constructive dialogue that has occurred.

Question: What types of technical assistance does the Department plan to provide States to assist them in making needed improvements? If none, what incentives will the States have to make these needed improvements?

Answer: The Department will provide technical assistance to States with respect to Quality Control. The Department has always provided States with technical assistance within the resources available and will continue to do so. However, the Department does not believe that such assistance is needed to provide States with incentives to initiate corrective action.

State concerns about trust fund solvency, effective service to their unemployed citizens, the taxes they impose on employers, and efficient utilization of resources should be incentive enough to initiate such actions.

PRODUCTIVITY IMPROVEMENT IN THE UNEMPLOYMENT INSURANCE SYSTEM

Question: In its October 1984 report entitled "A Comprehensive Approach Needed to Futher Productivity Improvements in the Unemployment Insurance Program" GAO/HRD-85-8, GAO stated that if lower performing States could become 85 percent as productive as the most efficient States, and not decrease their payment accuracy, about $140 million annually could be made available for other uses in the system. What efforts has the Department taken to obtain productivity improvements in the Unemployment Insurance system?

Answer: The Unemployment Insurance Service (UIS) will begin, in Fiscal Year (FY) 1985, implementation of a national UI Quality Control program. This program, designed to encompass the entire UI process, will begin to collect data on the quality of the functions performed. Data collected will be used by State Employment Security Agencies (SESAs) to assess most aspects of their operations and to craft corrective action plans where appropriate.

The UI allocation process offers incentives for obtaining increased productivity. Automation grants are available each year for States to upgrade and expand data processing capabilities. The QC initiative, described above, is funded through the allocation and will affect quality and productivity. Also, the Internet program, which reduces time and errors in the Interstate payment program, is part of the allocation.

In FY 1985 and FY 1986, the Department plans to provide conversion assistance funding to SESAs that currently operate their UI programs under the wage request system and that have passed legislation to convert to wage record reporting. The effects of this further conversion are likely to create some of the efficiencies called for under the subject report, including reduced administrative costs, and improved detection of fraud and abuse.

Other systemic events that are likely to influence productivity include the Deficit Reduction Act of 1984, which is expected to lead most States which are wage request States to convert by September 30, 1988, to quarterly wage record system for UI purposes.

Question: Has the Department developed a plan as recommended by GAO? If so, please describe. If not, why not?

Answer: As the GAO report points out, some of the elements of such a productivity monitoring, measurement, system already exist; and we already are doing or plan to do several parallel kinds of quality control and productivity monitoring.

Question: What incentives exist for States to improve their performance and reduce costs below the federally established funding levels.

Answer: The Administration's allocation methodology, which provides proportionately greater funding of a State's administrative requirements—as determined by the State's work measurement study--to States with high productivity, provides a positive incentive to operate on a lower cost basis.

Another incentive is the flexibility provided States to utilize savings achieved in one nonpersonal expense category to be used in any other nonpersonal service category.

The largest incentive which exists for a State to improve it's performance may well be the potential tax reduction that could be afforded employers in the State resulting from improved benefit payment accuracy.

The Administration believes that the current structure of incentives and administrative requirements is not oriented toward achieving optional efficiency or responsiveness. For this reason the Administration is working with the States, and will soon be conferring with the Congress, on proposals to increase State authority and accountability for the administration of the unemployment conpensation system. By giving the States the same degree of authority for program administration that they already possess in the benefit area, the Administration is confident that performance will improve and, simultaneously, costs will decline generally.

TARGETED JOBS TAX CREDIT (TJTC) PROGRAM

Question: During Fiscal Year 1984, employers will claim an estimated $695 million in tax credit under the program. What is known about the types of employers who hire persons eligible under this program ?

Answer: Based on income tax return data from the IRS it appears that employers in the service, retail trade and manufacturing industries are most likely to use the credit.

Jobs Tax Credits Claimed by
Corporations in Taxable Year 1982 by Industry 1/

Industry	Amount of Jobs Credits ($ millions)	Percent of Total
Agriculture	$4.3	1.3
Mining	2.4	0.7
Construction	28.5	8.7
Manufacturing	90.4	27.6
Transportation & Public Utilities	10.3	3.2
Wholesale Trade	13.6	4.1
Retail Trade	93.8	28.7
Finance, Insurance & Real Estate	18.4	5.6
Services	65.1	19.9
Other	0.5	0.2
Total	$327.3	100.0

Office of the Secretary
of the Treasury
Office of Tax Analysis

March 18, 1985

1/ Comparable data by industry are unavailable for noncorporate businessess. Approximately $92 million of Jobs Tax credits were claimed on individual tax returns in 1982.

Source: Office of the Secretary of the Treasury, Office of Tax Analysis.

Question: What percentage of these employers are small businesses?

Answer: Based on a 1982 Employer Survey funded by the National Institute of Education and the National Center for Research in Vocational Education, it appears that large employers--primarily in the service, retail trade, and manufacturing industries--are far more likely to use the credit than small employers.

Number of Employees	Percent of Employers Who Have Used the TJTC
1-4	4
5-19	10
20-49	12
50-199	21
200+	44
Industry	
Mining	2
Construction	8
Manufacturing	13
Transportation and Utilities	6
Wholesale and Retail Trade	11
Finance	5
Other Services	10

Source: 1982 Employer Survey funded by the National Institute of Education and the National Center for Research in Vocational Education. This survey is not nationally representative, but is representative of both urban and rural sites in three regions--South, North Central, and West. In all, 3,710 employers responded to the survey.

Question: What incentives do small businesses have to hire the eligible persons if the tax credit does not have a positive financial impact for the employer?

Answer: While we know of no other specific incentives for businesses to hire the eligible persons, it is apparent that many eligible persons do obtain employment without benefit of the credit.

The Department has estimated that in 1981 between 2.4 million and 3.0 million economically disadvantaged youth were hired by the private for-profit sector. During Fiscal Year 1981, there were 176,000 certifications for economically disadvantaged youth, or a participation rate of 6 to 8 percent of the eligible hires. Estimates of the participation rate for several other eligible groups were not greater than 10 percent. In Fiscal Year 1984, there were 328,213 certifications of economically disadvantaged youth. Assuming that the same number of economically disadvantaged youth were hired in 1981 and 1984 implies a 1984 participation rate of 11 to 14 percent of eligible hires. In other words, almost nine out of ten economically disadvantaged youth, who were eligible for the credit, found employment without the benefit of the TJTC.

One must be mindful, that the desired effect of the credit is achieved only when targeted employees are hired that otherwise would not have been hired. In many cases these new, targeted hires are not produced, even in those cases where the employers claims the credit. The clearest case of ineffectual credits occurs where the eligible worker for whom the credit is claimed would have been hired by the same employer or by another employer without regard to the existence of the credit.

Question: The Congress has expressed concern about eligibility under the program and, in the Economic Recovery Tax Act of 1981, it authorized $5 million to be used to test whether individuals certified as members of targeted groups were eligible. Also, the Tax Equity and Fiscal Responsibility Act of 1983 requries the Secretary of Labor, starting with calendar year 1983, to report annually to the Congress on the testing results for the preceding year. Has the Department submitted these required reports to the Congress? If so, please briefly describe its findings. If not, please explain why such reports were not submitted.

Answer: The report as required by the Tax Equity and Fiscal Responsibility Act of 1983 has not yet been submitted. The issuance of the TJTC Handbook containing approved reporting instructions for submission of audit results by the States, was delayed. The Handbook was issued in July 1984 and we are now able to officially request the States to retroactively report results of their audit sampling for calendar year 1983. The report will be compiled as soon as all data is available.

Question: Why is the Department recommending that the program not be continued beyond its December 1985 expiration date?

Answer: The estimated revenue loss attributed to the Targeted Jobs Tax Credit is $415 million in FY 1985. Continuing this large tax expenditure can be justified only if the program is achieving its intended effects. Our best evidence indicates that it is not, and that the vast majority of targeted individuals hired by firms are hired without the aid of the credit. In 1981 between 2.4 million and 3.0 million economically disadvantaged youth were hired by the private for-profit sector. During Fiscal Year 1981, there were 176,000 certifications for economically disadvantaged youth, or a participation rate of 6 to 8 percent of the eligible hires. Estimates of the participation rate for several other eligible groups were not greater than 10 percent. In Fiscal Year 1984, there were 328,213 certifications of economically disadvantaged youth. Assuming that the same number of economically disadvantaged youth were hired in 1981 and 1984 implies a 1984 participation rate of 11 to 14 percent of eligible hires. In other words, almost nine out of ten economically disadvantaged youth, who were eligible for the credit, found employment without the benefit of the TJTC.

It is also important to recognize that even when the TJTC is directly responsible for the employment of a targeted employee, no net increase in targeted employment need occur. This is so because the credit may result in a reallocation of employment between new targeted workers who qualify for the credit and previously employed targeted workers who do not. If there is an increase in targeted employment as a result of the TJTC, it may come at the expense of nontargeted but nonetheless low-paid individuals who are displaced by the targeted individuals.

Finally, increases in targeted employment by firms claiming the credit are counterbalanced by the loss of employment in other sectors of the private economy. The cost of the TJTC program ultimately must be financed either through higher taxes or lower government outlays. Financing the credit results in lower output and employment in other sectors of the economy, which offsets any higher output and employment of businesses using the TJTC. For example, if the program is financed by higher income taxes, firms elsewhere in the economy will tend to reduce their output and correspondingly their employment.

REFERRING APPLICANTS TO PRIVATE AGENCIES

Question: According to studies by the National Commission on Employment Policy and others, private employment agencies identify many job opportunities that are not listed with the Employment Service. Some policy analysts, citing encouraging pilot projects using welfare recipients, have suggested that referring Employment Service applicants to private agencies could lead to a number of applicants finding jobs sooner (with consequent increased tax revenues, lower unemployment insurance payments, and savings to the Employment Service in staff time).

For several years local Employment Service offices were prohibited by DOL regulations from making referrals to private agencies - viz, superceded 20 CFR 604.1(h). However, the 1982 Amendments to the Wagner-Peyser Act (29 USC 41, et seq.), added a new section 13(b) which provided that nothing in the Act shall be construed to prohibit the referral of Employment Service applicants to private agencies as long as applicants are not charged a fee.

Private employment agency spokesmen allege that, despite this 3-year old statutory provision, Employment Service offices still do not refer applicants to them even if the Service has not been able to find the applicants jobs. They further note that DOL has not issued regulations to implement such procedures. Does the Department of Labor currently have any plans to provide State Employment Security Agencies with guidelines that encourage, require, or assist them to establish procedures for referring applicants to private agencies?

Answer: The primary purpose of the Wagner-Peyser Amendments was to permit States to design and operate their employment service programs to meet their needs with minimal interference from the Federal government. The provisions, as authorized in Section 13, are clearly written, and need no further clarification by the Department. Soon after the enactment of the JTPA amendments to the Wagner-Peyser Act the Department conducted briefings for the States in various locations to review the provisions of the Amendments. As questions have been raised, the Employment and Training Administration has provided clarification. No substantial questioning of the interpretation of this provision has been raised with respect to the provision of Section 13(b).

ANALYSIS ON EMPLOYMENT SERVICE CLIENTS

Question: In 1983 the DOL funded study, National Evaluation of the Impacts of the United States Employment Service, analyzed the effects of Employment Service activities on the employment and earnings of its clients. This study was applicable to the Employment Service as it operated just before the passage of the 1982 Amendments to the Wagner-Peyser Act, which substantially changed several facets of the Employment Service. DOL currently has underway, a "process" study of the effects of the 1982 Amendments on the Employment Service operations, but it does not address effects on clients. Does DOL plan to fund an updated analysis of the impacts of the Employment Service on clients so that results can be compared to the 1983 study of impacts prior to the amendments?

Answer: The emphasis of the Employment Service (ES) process study is on the impact of the 1982 Wagner-Peyser Amendments on the Employment Service. Effects of the amendments on services to clients and on the clients themselves are also matters of concern. To the extent the data is available, the contractor will attempt to assess the relatively short-term effects on clients. Any comparisons will focus primarily on the transition period 1984 and on Program Year 1984 although Fiscal Year 1983 results (data comparisons) are also included in the study. There are no plans at this time, however, to conduct sophisticated net impact analysis regarding the impact of ES services on clients, as occurred under the previous study.

IMPACT OF EMPLOYMENT SERVICE 1982 AMENDMENTS

Question: Can DOL share any preliminary findings of the current MARCO System, Inc. "process" study about impacts on the Employment Service of the 1982 Wagner-Peyser Act Amendments?

Answer: Preliminary findings indicate that:

- In general, the new authority of the Governor under Job Training Partnership Act (JTPA) facilitated the merging of Employment Service and job training functions at the State level.
- In the large majority of Service Delivery Areas in the sample, Private Industry Councils had limited influence over ES planning and policy making.
- Except for some of the funding provisions, the 1982 amendments have had minimal impact upon ES services to veterans in the sample States.
- For the most part, the 1982 amendments have had little, if any, impact upon ES services to Unemployment Insurance (UI) claimants in the sample States, or upon ES-UI operating relationships.
- Each State in the sample has adopted some system of performance indicators for monitoring ES local offices. However, most are using the Employment and Training Administration placement goal as an overall guide.
- As yet, there has not been a significant trend toward integration of ES and JTPA reporting systems in the sample States.

DISLOCATED WORKER DISCRETIONARY FUNDS

Question: How has the Department of Labor used its discretionary funds, which amount to 25 percent of dislocated worker assistance appropriations?

Answer: The Department utilizes a process which requires States to submit to the Department requests for funding from the 25 percent funds reserved by the Secretary. Annually, the Department notifies the States of the amount of funds available, proposal preparation information, the criteria against which the proposals will be judged, and the schedule for receiving, reviewing and acting upon proposals. States must prioritize proposals where more than one is submitted and may add requirements of their own when advising interested parties to submit proposals to the State.

Projects which have been funded vary but have primarily concentrated on industries such as steel, timber and other industries which have experienced major layoffs.

Question: What are your priorities for these funds?

Answer: The Department has advised all of the States that it is interested in programs which clearly identify the industries affected and occupations lost, the occupations in which retraining will occur, and the companies in which the retrained worker will obtain employment. The better a proposal addresses these priorities, the more likely it is to be funded. An additonal criteria considered is the severity of worker dislocation in the various States. Also, the Department is mounting a special effort with these funds to address the needs of dislocated steel and copper workers.

Question: Were all discretionary funds released during Fiscal 1983 and the transition period from October 1, 1983 to June 30, 1984?

Answer: Of the total $51,062,500 available for the Dislocated Worker National Reserve from Fiscal Year 1983 and transition period funding, only $47 thousand or .1 percent went unobligated and lapsed.

AWARD TO ORGANIZATIONS FOR ASIAN AMERICAN/PACIFIC ISLANDERS

Question: What progress has the Department made in making an award to an organization to represent the employment concerns of elderly Asian Americans and Pacific Islanders?

Answer: Recently, because of the interest of the Senate in the employment needs of elderly Asian Americans and Pacific Islanders, the Department examined how well the Senior Community Service Employment Program (SCSEP) was serving this group. Our analysis showed that Asian American/Pacific Islanders were participating in the SCSEP at a rate slightly in excess of their incidence in the population. This group currently constitutes 1.7 percent of the population whereas they are being served by the SCSEP at a rate of 2.3 percent.

Because of these findings the Department has determined that it is not necessary to add a special national grantee to serve this population group.

JOB CORPS FACILITIES

Question: What is the current status of Job Corps facilities?

Answer: There are 2,729 structures currently being utilized at the 107 Centers operated by Job Corps. The condition of the structures range from excellent to poor. More than 50% of the Job Corps structures are over 40 years old. Some of the older structures (especially the wood frame structures) have deteriorated with age and wear, requiring many major and costly repairs to electrical, mechanical, plumbing and roofing systems as well as interior finishes. In many cases the old wood frame structures cannot be effectively or efficiently maintained nor can they be economically rehabilitated.

The structures recently constructed and rehabilitated by Job Corps are in good to excellent condition. The benefits of new construction include the efficient utilization of space and the reduction of maintenance and energy cost. In addition, new construction has enhanced the learning environment, improved the quality of life and increased the morale of both corpsmembers and center staff.

Question: Are additional funds needed for repairs and renovations?

Answer: No. A substantial amount of the funding the Job Corps has received over the past two fiscal years has been used to address capital needs identified by facility surveys. In Program Year 1984 alone, Job Corps has committed over $89 million to projects for repair and rehabilitation of facilities.

Question: What level of funding would be needed for Job Corps facility modernization, with no change in program participation levels and the quality of programs?

Answer: For Program Years 1985 through 1989, $158.3 million in funding will be needed to overcome deficiencies discovered in facility surveys. As in all such surveys, some needs are more pressing than others. Top priority needs over the next few years would be addressing life and safety repairs ($2.5 million). Other needs categories include code violations ($16.2 million), repair/replacement ($92.7 million) and programmatic ($46.9 million).

JOB CORPS AUTHORIZING LEGISLATION

Question: The Job Corps authorizing legislation stipulates that, to become an enrollee, a young man or woman must be "currently living in an environment so characterized by cultural deprivation, a disruptive homelife, or other disorienting conditions as to substantially impair prospects for successful participation in other programs providing needed training, education or assistance." How can you realistically expect to serve these youth through the typically short-term, superficial, live-at-home training with limited supportive services offered by job training programs?

Answer: Under JTPA Title II-A, remedial education and basic skills training, vocational exploration, on-the-job training and job counseling are authorized. In addition, some supportive services, including transportation, health care, child care and other needs may be provided to participants. States have a great deal of flexibility under JTPA to tailor programs to meet local needs, including the authority to undertake programs similar to the Job Corps. Other State and local resources also can supplement services to disadvantaged youth.

JOB CORPS PLACEMENT RATE

Question: Last year, the Labor Department submitted information for the hearing record showing that 63 percent of the youth who leave Job Corps have "positive outcomes" -- that is, they either got jobs or went back to school for further education. Since Job Corps enrolls the "hardest to reach, hardest to teach" youth, how can such a placement rate be viewed as anything less than a resounding success?

Answer: The information submitted last year was the estimated placement rate for positive terminations calculated on only those terminees for whom followup reports were received. For FY 1983 reported placement outcomes divided by all terminees indicate that 52% of all terminees entered jobs, school or further training. It is not, however, due to the outcome rates that the Department has requested the discontinuation of the programs. Rather, it is the cost of attaining these results. We believe that under JTPA Title IIA, States can achieve equal or better results at substantially lower costs than the Job Corps.

PRESIDENT'S SUPPORT OF JOB CORPS LEGISLATION

Question: Job Corps was established twenty years ago to make sure attention was given to the most severely disadvantaged youth not adequately served elsewhere. The high cost of these intensive services has long been known, but viewed as essential. Didn't the President in fact support extension of the Job Corps authorizing legislation as part of the Job Training Partnership Act, which he signed into law in 1982?

Answer: Yes, the Job Training Partnership Act provided authorization for the Job Corps Program under Title IV-B. The President's budget requests through Fiscal Year 1985 also included funding for the Job Corps. The decision not to request funds and phase out the program was made during consideration of the Fiscal Year 1986 budget and is influenced by current program cost projections, the availability of other less costly programs and the need to control overall Federal expenditures.

Question: Do you now plan to seek a repeal of the Job Corps authorizing legislation?

Answer: A repeal of Title IV-B is not necessary since operation of the Job Corps program is subject to the availability of appropriated funds. We have not requested an appropriation for Job Corps for Program Year 1986.

MISLEADING OMB DATA ON JOB CORPS PLACEMENTS

Question: In its rationale for eliminating the Job Corps, OMB stated that "only one-third of Job Corps enrollees are reported as being employed." How does this square with data the Labor Department provided in last year's hearing record that Job Corps has a 78 percent positive termination rate?

Answer: The rate of "one-third" as used by OMB is based on the reported number of terminees who entered employment or joined the military as a percentage of total terminees rather than as a percentage of terminees contacted.

The 78 percent positive termination rate differs in two ways from the OMB rate. It goes beyond job placement and includes other positive outcomes including returning to school or other training. Secondly, it was calculated based on the number of contacted terminees versus total terminees.

In both cases, about 20 percent of those reported as employed had dropped out of Job Corps within 90 days of enrolling. Available studies indicate that these enrollee successes cannot necessarily be attributed to their Job Corps experience.

Question: What does your latest data show to be the percent of Job Corps youth who are placed in jobs and further education?

Answer: For the first six months of Program Year 1984 (July-December 1984) positive outcomes were reported as 61.3 percent of total terminees: 52 percent of all terminees were reported as entering employment, and 9.3 percent as entering further education.

COMMUNITY SERVICE EMPLOYMENT PROGRAM

Question: How do you account for the fact that there has been no increase in the job slot cost in recent years?

Answer: The job slot cost, or unit cost, is an estimate of the average Federal cost of one Senior Community Service Employment Program (SCSEP) slot for one year. It includes all Federal costs associated with the program: administration, enrollee wages and benefits, and such costs as medical exams, training, and counseling. The unit cost is used for program planning purposes by the Department and program sponsors. It was developed a number of years ago based on historical costs and adjusted for increases in the minimum wage.

It has not been necessary to adjust the unit cost upward because the enrollee wages and related benefits portion of the unit cost, which amounts to approximately 85 percent of all program costs, has not been affected by any increases in the minimum wage since 1981. The inflationary and other cost increases which affect the other parts of the unit cost have been offset by adjustments made by program sponsors. These adjustments include: improvements in the quality and quantity of the non-Federal contributions, reduced administrative costs, and reductions in some enrollee fringe benefits.

Question: What portion of the job slot cost is attributed to administration in the current program year?

Answer: During the last program year, which ended on June 30, 1984, the actual reported administration cost was 10.4 percent of all expenditures. This figure represents the average administrative cost for all sponsors. During the present program year, which began July 1, 1984, sponsors estimated that they would need about 13.6 percent for administration. However, it has been our experience that sponsors generally anticipate higher administrative costs than are actually needed. The excess administrative costs are later reprogrammed for enrollee wages and benefits.

Question: How is the $5,111 level determined?

Answer: The $5,111 figure reflects all program costs, and represents an estimate of the average Federal cost of one Senior Community Service Employment Program (SCSEP) slot for one year. It includes all Federal costs associated with the program: administration, enrollee wages and benefits, and such costs as medical exams, training, and counseling. The unit cost is used for program planning by the Department and program sponsors. It was developed a number of years ago based on historical costs and has been adjusted for minimum wage increases.

FEDERAL PRIORITY PROJECTS

Question: Please describe any action taken on the Committee's recommendation that the Labor Department give special consideration to multi-State projects and to projects which address other Federal priorities, such as the training of workers to clean up hazardous waste sites.

Answer: A total of 25 projects currently are funded under the Department of Labor's Pilots and Demonstration (P&D) projects of the Job Training Partnership Act (JTPA). Of these, 20 are multi-State projects with 17 involving 5 or more States. Approximately 90 percent of P&D funds are allotted to multi-State projects.

Nineteen of the P&D projects are designed to address special emphasis groups or other Federal priorities identified in Title IV, Part D of JTPA. These include projects that focus on skill shortages, displaced homemakers, offenders, handicapped individuals, persons with limited English speaking proficiency, women, single parents, individuals lacking educational credentials, etc. At present, no projects involve the training of workers to clean up hazardous waste sites.

TITLE V REGULATIONS

Question: What progress has been made on Title V regulations published as proposed rules in 1980?

Answer: The amendments of 1981 and 1984 made those regulations obsolete and they will not be finalized. However, the Department is in the process of proposing new regulations to incorporate the 1984 amendments to Title V of the Older Americans Act.

SPECIAL NATIONAL JOB TRAINING PROJECTS

Question: What is the current funding status of certain national activities which this Committee has designated as high priority; specifically, the 70,001 "Youth Project"; and Opportunities Industrialization Centers?

Answer: The 70,001 "Youth Project" is funded through October 5, 1985; the Opportunities Industrialization Centers (OIC) is funded through September 2, 1985.

SPECIAL NATIONAL JOB TRAINING PROJECTS

Question: Are these programs currently funded at their Fiscal 1983 levels, as directed by this Committee's 1985 appropriations bill report?

Answer: If the Congress approves the rescission proposed for the national programs activity, funds in PY 1985 may be insufficient to continue these recommended activities at their FY 1983 level. The present PY 1985 level of $4,823,000 for pilots and demonstrations was reduced from $20,698,000 in response to requirements of Section 2901 of the Deficit Reduction Act of 1984 and Section 515 of the Treasury-Postal Service Appropriations Act of 1985 which require savings in contracted/assistance services. We intend to use the remaining funds along with carry over amounts to finance programs for the handicapped and to phase out pilots and demonstration programs--including OIC and 70,001—giving them time to make the transition to alternative sources of support at State and local levels.

ELIMINATING TECHNICAL ASSISTANCE

Question: Your budget proposes to eliminate direct Federal assistance funding in Fiscal 1986 for Job Training Partnership Act expenditures. In view of recent evaluations which have highlighted several problems State and local areas are having with implementation of the Job Training Partnership Act, how do you justify eliminating Federal technical assistance?

Answer: The Department will continue to utilize its staff to provide necessary and appropriate training and technical assistance to the States. States will continue to provide assistance to substate areas using the six percent of their allocation reserved for this purpose. In addition, States may include, as part of their coordination and special services activities, information and technical assistance to assist SDAs in developing and implementing plans and programs. These activities, authorized under Section 121, may be financed with the 5 percent setaside for administrative activities. The Department feels that this approach is consistent with the intent of the Act, whereby each State is primarily responsible for the administration of JTPA, including the provision of training and technical assistance.

CUT IN NATIONAL JOB TRAINING PROJECTS— CONSULTANTS?

Question: You are proposing to withhold from obligation $7,306,000 of the funds appropriated by Congress for national employment and training activities. You cite section 515 of the Fiscal 1985 Treasury-Post Office appropriations legislation as requiring this impoundment. Section 515 required placing in reserve 10 percent of amounts "that would otherwise be available for consulting services, management and professional services, and special studies and analyses". Please explain how you justify classifying national employment and projects -- many of which have been providing direct services for years to such hard-to-place groups as disadvantaged youth, low-income minorities, handicapped individuals, and ex-offenders -- as consultant services.

Answer: The definition of "consulting services, management and professional services, and special studies and analyses" for purposes of responding to the Congressional limitations imposed was the expanded definition for "Advisory and Assistance Services" developed by the Cabinet Council on Management and Administration and furnished to the Congress in response to a Congressional request. This includes not just consultant services, but all advisory and assistance services as well. Most of the Pilots and Demonstrations affected would not have been included under the more narrow category "consultant services". It also must be stressed that many of the projects which will be affected by the withholding do not directly serve the disadvantaged. Most of the disadvantaged individuals directly served by the JTPA Pilots and Demonstrations are in programs serving the handicapped. These projects serving the handicapped are not affected by the proposed rescissions.

Most of the organizations affected by the withholding do not serve eligible JTPA individuals directly. These organizations have provided valuable services in the past. They were particularly valuable making the transition to the new decentralized system under JTPA. However, with the States assuming the primary responsibility for program operations, these services shall now be more appropriately financed at the State level.

Question: Specifically, which national projects would be eliminated by withholding from obligation $7,306,000?

Answer: All of the $7,306,000 will come from the Pilots and Demonstration account. The Department has not specified which contracts will be associated with this particular savings measure and which ones will be associated with the proposed Section 2901 rescission. The following is a list of current Pilots and Demonstration contracts financed in Program Year 1984 which will be affected by either of these two savings measures:

OJT National Association of Homebuilders
PREP, Inc.
National Tooling and Machinery Association
International Union of Operating Engineers
Greater Cincinnati Industrial Training Corp.
Bay State Skills Corporation
National Council of Young Israel

Partnership Activities

National Alliance of Business
SER/Jobs for Progress
National Urban League
Opportunities Industrialization Center of America (OIC)
Human Resources Development Institute
70001 Ltd.

Other

National Puerto Rican Forum
Aetna Casualty and Surety Company
Manpower Development Research Corp.
Phoenix Institute

After this withholding, and the additional $8,569,000 reduction pursuant to Section 2901 of the Deficit Reduction Act, $4,823,000 would be left for Pilots and Demonstration projects. In addition, it is anticipated that some carry-over funds from Program Year 1984 will be available. These two sources of funds will be used to fund programs in the following order of priority: (1) handicapped programs at their Program Year 1984 funding level for up to one year, giving them time to make the transition to alternative sources of funding, Federal or non-Federal, at State and local levels; (2) other contractors serving enrollees, for a period of time sufficient to enable them to explore alternative funding sources (funding of specific projects will depend on individual circumstances); and (3) other contractors not serving enrollees, allowing them time to obtain alternative funding sources (again, funding levels of specific projects will depend on individual circumstances).

Question: Why is this the only place in the entire Labor Department that you are cutting "consultant services" pursuant to the Treasury-Post Office bill?

Answer: In addition to the approach adopted, consideration was given to Department-wide, across-the-board reductions in these services. Because of the differences in terms of additional Congressional actions required between the already enacted cuts required by this 1985 Appropriations Act and the proposed rescissions associated with the Deficit Reduction Act, it was decided to include those activities of lowest priority to the Department under the Section 515 heading. All others were requested as our response to the requirements of Section 2901 of the Deficit Reduction Act. The JTPA Pilots and Demonstrations affected by the Section 515 action are less important to the successful operation of DOL programs than those included as Section 2901 savings. It should be noted that amounts reserved pursuant to Section 515 were excluded from amounts previously considered for rescission, so that overall consultant savings under Pilots and Demonstrations were not increased to respond to the reserve requirements of Section 515.

Question: Which projects would be eliminated by the rescission of an additional $10,708,000?

Answer: All but $2,139,000 of the $10,708,000 will come from the Pilots and Demonstration account. The balance of $2,139,000 comes from technical assistance and training activities ($2,100,000) and from the National Commission for Employment Policy ($32,000) and the National Occupational Information Coordinating Committee ($7,000). The Department has not specified which contracts will be associated with this particular savings measure. The following is a list of current Pilots and Demonstration contracts financed in Program Year 1984 which will be affected by this proposed rescission or the Section 515 required withholding of consultant funding.

OJT

National Association of Homebuilders
PREP, Inc.
National Tooling and Machinery Association
International Union of Operating Engineers
Greater Cincinnati Industrial Training Corp.
Bay State Skills Corporation
National Council of Young Israel

Partnership Activities

National Alliance of Business
SER/Jobs for Progress
National Urban League
Opportunities Industrialization Center of America (OIC)
Human Resources Development Institute
70001 Ltd.

Other

National Puerto Rican Forum
Aetna Casualty and Surety Company
Manpower Development Research Corp.
Phoenix Institute

After this rescission of $8,569,000 and the additional $7,306,000 withholding pursuant to Section 515 of the Treasury-Postal Service Appropriation Act, 1985, $4,823,000 would be left for Pilots and Demonstration projects. In addition, it is anticipated that some carry-over funds from Program Year 1984 will be available. These two sources of funds will be used to fund programs in the following order of priority: (1) handicapped programs at their Program Year 1984 funding level for up to one year, giving them time to make the transition to alternative sources of funding, Federal or non-Federal, at State and local levels; (2) other contractors serving enrollees, for a period of time sufficient to enable them to explore alternative funding sources (funding of specific projects will depend on individual circumstances); and (3) other contractors not serving enrollees, allowing them time to obtain alternative funding sources (again, funding levels of specific projects will depend on individual circumstances).

Because of the nature of our Training and Technical Assistance (TAT) program the proposed $2.1 million rescission will not require elimination of projects with contractors which have had continuing relationships with DOL such as the public interest groups which provide technical assistance to their constituents. Those activities which will be affected are the day to day assistance in addressing management and programmatic issues that are more appropriately addressed by the States than the Department of Labor or its national contractors. Those specific activities which will be discontinued are those which were geared to JTPA implementation.

DISLOCATED WORKER PROGRAM

Question: Are States able to provide the full matching amounts required by law for Title III dislocated worker assistance?

Answer: While this issue will be basically determined through the audit process, no State has advised the Department that it will be unable to meet this requirement.

Question: If States are experiencing difficulties in matching funds, what are some of the reasons?

Answer: As indicated above, the Department does not have any information which indicates that matching is a problem. It would appear that most matching is provided through in-kind contributions.

Question: Now that the Title III program has been operating for more than two years, what has been learned about dislocated workers and the nature of their problems?

Answer: The following report shows the characteristics of individuals who terminated from the Title III program through June 30, 1984. The Department does not feel that there is sufficient information available to reach definitive conclusions on this issue. It may be that, as with all unemployed workers, there will never be any one or two basic answers to such a complex issue. However, based on discussions with State staff it would appear that the following points are important.

1. Dislocated workers would prefer not to relocate.
2. Dislocated workers feel, generally, that their primary need is assistance in finding new employment rather than retraining.
3. It is extremely difficult to locate jobs which pay salaries as high as those of the jobs which the dislocated workers lost.

12-Oct-1984
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PA
le III

Report Period:
Oct 1, 1983 - June 30, 1984

Aggregated Annual Report For: U.S. TOTALS

I. PARTICIPATION AND TERMINATION SUMMARY	COMBINED TITLE III
A. Total Participants	96,067
B. Total Terminations	50,536
1. Entered Employment	36,489
3. All Other Terminations	14,047

II. TERMINEES PERFORMANCE MEASURES INFORMATION	COMBINED TITLE III
1. Male	34,286
2. Female	16,250
4. 16-21	2,708
5. 22-54	44,332
6. 55 and Over	3,496
. School Dropout	10,216
. Student (hs or less)	912
9. H.S. Grad. & above	39,408

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 11. White                      |          35,514
 12. Black                      |          10,941
 13. Hispanic                   |           2,837
 14. American Indian            |             299
 15. Asian or Pac. Islander     |             945
                                |
 16. Limited English            |             793
 17. Handicapped                |           1,442
 18. UI Compensation Claimant   |          22,650
 19. Unemployed                 |          44,849
                                |
 21. Av Weeks Participated      |              10
 23. Total Program Costs........|.....$71,198,389..................................
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                                                                      12-Oct-1984

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TPA                                                        Report Period:
itle III                                                   Oct 1, 1983 - June 30, 1984

Aggregated Performance For: U.S. TOTALS...........................................
----------------------------------------------------------------------------------
 PROGRAM                     |     COMBINED
 TOTALS...                  .|     TITLE III
----------------------------------------------------------------------------------
 Total Participants          |         96,067
 Total Terminations          |         50,536
.Total Program Costs.........|...$ 71,198,389.....................................
----------------------------------------------------------------------------------
 PERFORMANCE                 |     COMBINED
 INDICATORS                 .|..   TITLE III......................................
----------------------------------------------------------------------------------
 Entered Employment Rate     |            72 %
 Positive Term. Rate         |            72 %
                             |
 Cost per Ent. Employment    |      $1,951
 Cost per Pos. Term.         |      $1,951
                             |
 Expend. as % of Total       |       100.0 %
 Enrollment as % of Total    |       100.0 %
                             |
.Av. Weeks Participated......|..........10.......................................
----------------------------------------------------------------------------------
 ERMINEE                     |     COMBINED
 HARACTERISTICS  (%)         |     TITLE III
----------------------------------------------------------------------------------
 Male                        |            68 %
 Female                      |            32 %
                             |
 16-21                       |             5 %
 22-54                       |            88 %
 55 and Over                 |             7 %
                             |
 School Dropout              |            20 %
 Student (hs or less)        |             2 %
 H.S. Grad. & above          |            78 %
                             |
 White                       |            70 %
 Black                       |            22 %
 Hispanic                    |             6 %
 American Indian             |             1 %
 Asian or Pac. Islander      |             2 %
                             |
 Limited English             |             2 %
 Handicapped                 |             3 %
 UI Compensation Claimant    |            45 %
.Unemployed..................|............89 %....................................
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Question: To what extent have private industry and labor organizations participated in the Title III program?

Answer: The Department has not conducted any studies which identify a conclusive level of participation by these entities.

However, we do know that both entities are participating in many different ways, including:

- actually operating dislocated worker programs;
- providing matching funds or simply contributing additional funds to the training programs; and
- providing other types of support to the programs, such as the identification of workers, referral of workers to training programs, and assistance in identifying or creating new employment opportunities.

Both the private sector and labor also participate through their representation in the State Job Training Coordinating Council and the Local Private Industry Councils. These groups participate in developing statewide and local proposals for dislocated worker programs.

NEED TO ADJUST PERFORMANCE STANDARDS

Question: It has been suggested that your job training performance standards need to be modified to avoid the tendency to enroll individuals who actually need very little help -- so that local projects can report good placement statistics and low costs per enrollee. Do you plan to adjust performance standards so that local "service delivery areas" are not penalized for the extra costs of serving those who need longer term training?

Answer: In accordance with Section 106 (e) of the Act, Governors may adjust the standards to reflect differing local economic circumstances and characteristics of participants served. The Department has provided an adjustment methodology which Governors may use to make such adjustments. By using such a methodology, Governors can establish performance standards which permit SDAs to serve individuals who require longer periods of training without being penalized for doing so.

JOB TRAINING FOR THE HANDICAPPED

Question: In 1980 under the CETA job training program, the Labor Department reported that 8.6 percent of enrollees were handicapped. During the first 9 months of operation under the Job Training Partnership Act block grant program which replaced CETA, Labor Department data show only 7 percent of enrollees are handicapped. What accounts for this retrenchment in services to the handicapped?

Answer: While the Department does not consider a drop of 1 percent a "retrenchment," we are concerned that a lower percentage of handicapped are being served. Part of the problem may be simply the difficulty new program operators faced in implementing the overall programs in changing over from CETA. Another problem may be a change in the types of employment opportunities which are now being generated in local economies. The Department will continue to discuss this issue with the States to assure that the needs of handicapped citizens are addressed through this program.

Question: Is this another example of how the tendency to maximize placements has led project sponsors to shy away from enrolling more difficult to place handicapped individuals?

Answer: The shift from CETA to JTPA caused a shift in programs away from work experience and public service employment into new and different types of training programs. The change in programs resulted in a slight and temporary decrease in serving certain groups. As programs targeted for these groups are developed and implemented, service levels are expected to rise to prior levels.

Question: What can you do to encourage greater emphasis on serving the handicapped, through such means as strengthening technical assistance?

Answer: The Department will continue to discuss areas such as this with the States to assure that local program operators take handicapped individuals into consideration in developing local plans and that handicapped individuals receive appropriate services. States will be encouraged to establish service levels in relationship to the incidence of such individuals in the local eligible population.

SMALL BUSINESS REPRESENTATION ON PRIVATE INDUSTRY COUNCILS

Question: It is no secret that small businesses create most of the new jobs in this country, and that successful job training programs ought to get these businesses more involved. How successful have the local Private Industry Councils (PICs) been in attracting members from the small business community?

Answer: The Department does not have any statistics which indicate the exact number of Private Industry Council (PIC) members who represent small business. However, a National Alliance of Business survey of PIC members indicates that some 63 percent of those surveyed represent businesses with fewer than 100 employees; another 21 percent represent businesses with from 100 to 500 employees.

Questions: Can you point to specific examples of progress in orienting job training programs to the needs of small business?

Answer: Through the Department's contact with the National Alliance of Business (NAB), special efforts have been made to involve small businesses in the JTPA program. A specific example would be NAB's work with over 200 trade associations to encourage them to promote involvement of their membership in the Private Industry Councils and in the training and hiring of JTPA participants. NAB has also developed brochures for business which explain JTPA, and has distributed these through the associations.

TROUBLE SPOTS IN JOB TRAINING PROGRAMS

Question: A recent independent evaluation of the Job Training Partnership Act indicated potential problems in the following areas: failure to serve youth and dropouts effectively; failure to serve those most in need of help; difficulties in keeping the private sector involved; insufficient spending on supportive services such as child care; inadequate attention to linking job training with economic development and education programs. What comments do you have on these findings of possible problems during the first year of operations under the Job Training Partnership Act?

Answer: Program data indicate that JTPA serves youth, of whom a significant proportion are dropouts, as effectively as would be expected during a transition period. In its first year, dropouts were 26 percent and youth were 39 percent of all enrollees served. In the shift from CETA to JTPA, services to youth and dropouts (with reduced work experience, etc.) were more affected than some other types of services and thus required a greater restructuring of the program at the local level. As programs targeted for these groups are developed and implemented, services to them are expected to rise.

Regarding serving those most in need of help, our evaluation data show that, on the whole, JTPA is reaching individuals who are substantially more disadvantaged than the general eligible population. JTPA participants have lower incomes and have experienced longer periods of unemployment than the general disadvantaged population. Over 80 percent of adult Title IIA enrollees have been unemployed for 14 weeks or more. This is true for only 17 percent of the eligible adult population. A substantially higher proportion of JTPA enrollees than the disadvantaged population are youth (14-21). Minorities and AFDC recipients are represented to a greater extent in the program than among disadvantaged eligibles. Our data indicate that about 95 percent of JTPA enrollees are disadvantaged, 40 percent are receiving public assistance, and 46 percent are from minority groups.

A critical element in the success of JTPA is the entry of the private sector into the employment and training partnership through the local Private Industry Councils (PIC). Our process evaluation indicates that, since last year, the PIC role has increased steadily and substantially to where it is now the dominant force in most local programs. Our analyses show that the PIC was a dominant influence in determining services planned in 22 of 38 SDAs sampled and had an equal role with local governments in most of the others.

Regarding spending on supportive services (such as child care), evaluation data indicate that during the transition period approximately 73 percent of the SDAs' expenditures under Title IIA were devoted to training--the remainder for supportive services and administration. SDAs have expended approximately 10 percent of their funds for supportive services, and have not found it necessary to spend the 15 percent permitted for participant support. We believe this is due in part to the linkages JTPA has forged in the community so that services such as child care and health needs are provided through linkage with programs funded from other sources.

Finally, regarding the linkage of job training with economic development and educational programs, recent evaluation data on JTPA implementation show that a few States have already forged strong ties between economic development goals and JTPA program parameters. Linking job training to economic development is an evolving process and is likely to increase over the next year as the partners in JTPA come up with the strategies necessary to combine the workings of education, technology and employment and training programs that should lead to an increase in job creation for the disadvantaged in the private sector.

"CREAMING"

Question: The "Grinker/Walker" study of the job training program found an extremely short average duration of training -- only 8.2 weeks compared to a planned goal of 22 weeks. What accounts for this bias towards shorter, cheaper training?

Answer: The shift under JTPA to shorter training periods results from assessments by the PICs of their local labor market needs and participant needs. Programs have been designed to meet these respective needs and to expedite movement into the labor market and jobs for participants. There has been an increase in the provision of intensive, shorter-term on-the-job training and such services as counseling and job search skills training. This permits local service delivery areas to serve more participants with a broader range of services. Where there has been an identified need, specific vocational training programs for specific eligible groups have been developed. Finally, as a result of the improving economy and more jobs becoming available, participants leave training before completion to obtain regular employment in the private sector. Generally, the healthier the economy, the greater the likelihood that participants will not remain in long-term training, but instead will leave before completion for full-time permanent employment.

Question: Doesn't this trend run counter to the intensive training that seems to be needed to make a difference in the lives of the "hard core" unemployed, particularly youth?

Answer: While training may be more appropriate for some, the indications are that youth are being well served by receiving counseling and exposure to the work environment, where they learn such behavior as showing up to work on time, dressing properly, calling in when sick or late, etc. Private Industry Councils are doing a good job at moving youth into the workplace rapidly, as evidenced by placement rates for youth under JTPA of 57 percent, according to the Job Training Longitudinal Survey. This compares with 40 percent for youth under CETA.

Question: Are you concerned by the apparent tendency of local Service Delivery Areas toward "creaming"-- that is, selecting participants who are closest to being job ready?

Answer: JTPA established eligibility criteria which largely limit the program to serving economically disadvantaged individuals. Principal among them are welfare recipients and economically disadvantaged by virtue of family income. For 1984, for a family of four, the Federal poverty level established by the Department of Health and Human Services (HHS) was income of $10,200.

Our evaluation data show that, on the whole, JTPA is reaching individuals who are substantially more disadvantaged than the general eligible population. JTPA participants have lower incomes and have experienced longer periods of unemployment than the general disadvantaged population. Over 80 percent of adult Title II-A enrollees have been unemployed for 14 weeks or more. This is true for only 17 percent of the eligible adult population. A substantially higher proportion of JTPA enrollees than the disadvantaged population are youth (14-21). Minorities and AFDC recipients are represented to a greater extent in the program than among disadvantaged eligibles. Our data indicate that about 95 percent of JTPA enrollees are disadvantaged, 40 percent are receiving public assistance, and 46 percent are from minority groups. Based on this data, we feel that to suggest that the system is "creaming" is inappropriate.

IMPROVING YOUTH SERVICES

Question: Congressional oversight activities indicate that service delivery areas are experiencing difficulties in meeting the Job Training Partnership Act's requirement that 40 percent of block grant funds must be spent on youth. Do you know why this is occurring?

Answer: Program data indicate that JTPA serves youth as effectively as would be expected during a transition period. In its first year, JTPA enrollees were 39 percent youth. In the shift from CETA to JTPA, services to youth were more affected than some other types of services and thus required a greater restructuring of the program at the local level. Recent data indicate that SDAs are putting an increasing number of youth programs into place and as a result the percent of funds expended in youth programs is expected to rise.

Question: Do you plan to focus any technical assistance on helping service delivery areas improve their youth services?

Answer: Technical assistance is currently delivered by the National Alliance of Business, National Governors' Association, ETA Regional Offices and other such entities. As States assume greater responsibility for technical assistance beginning in Program Year 1986, SDA services to youth will likely be one area which will be emphasized.

The Department will continue to emphasize the importance of serving this group, and will continue to monitor the State's administration of the statutory requirement that this group be served according to its incidence in the local economically disadvantged population.

POTENTIAL CUTS IN BIG CITY JOB TRAINING ALLOCATIONS

Question: I have received correspondence from my home State of Connecticut warning of severe cutbacks to take effect July 1, 1985, as a result of formula distribution changes required by the Job Training Partnership Act for block grant funds. Reductions of 30 percent or more are feared by some large cities, even though the total nationwide funding level of $1.9 billion is not being cut. Have you received communications from representatives of large cities about this problem?

Answer: The Department is aware of the concerns expressed by many States and service delivery areas regarding the substate allocations for Program Year 1985. These changes are the result of two factors. The first is changing economic data which results in shifts in the allocation of funds according to the factors in the statutory formulas. The formula factors impacted by changing economic data are funds allocated based on unemployment in areas of substantial unemploment and funds allocated based on excess unemployment; that is, unemployment in excess of 4 1/2 percent. The second factor is that while the statutory formula contains a "hold harmless" factor for States, there is no similar factor in the statutory substate formula and, therefore, there may be substantial shifting of funds within the State based on these data.

The Department does feel that the States have available to them certain policy options in allocating funds to substate areas which would, to some extent, alleviate severe shifts caused by these problems.

Question: Is it true that you do not even plan to collect data to determine the severity of this problem?

Answer: Pursuant to JTPA, substate allocations are the responsibility of the States. While the collection of this information would no doubt be of interest, we do not believe the national collection of it would measureably help the Department perform its oversight responsibilities under the Act. Thus, in keeping with efforts to limit unnecessary administrative costs, no collection of this information is planned.

Question: Is there any leeway in the law concerning allocation of funds that permits you to work out administrative solutions with the States to prevent major disruptions of job training programs?

Answer: The Department feels that the States have sufficient authority, such as determining the substate identification of areas of substantial unemployment and the data which will be used to determine the substate allocations, to address the issues.

DISLOCATED WORKER SPENDING BY STATES

Question: According to Connecticut's United Labor Agency, my home State has been spending its Dislocated Worker Assistance funds as planned, and does not have any excess carryover. How do you avoid penalizing States that have done a good job gearing up this new program, in order to receive carryover from those States that have not been spending their dislocated worker funds?

Answer: The Department is aware of the concerns of those States which have little carryover funds to supplement DOL new funding. These concerns will continue to be discussed and all options, including possibly using the national reserve to supplement formula funding, will be considered.

Question: Provide for the record a State-by-State list of excess carryover balances in the Dislocated Worker Program.

Answer: As you know, under JTPA, States report on an annual basis. Therefore, at this time, the Department has available expenditures by State for the period ending June 30, 1984. We are submitting, under separate cover, a report to the Committee showing total Title III funds available to the States as of June 30, 1984, and total reported expenditures through that date. The relatively low level of expenditures through this period is because (1) the initial $110 million was made available while States were still in the process of implementing the overall program and (2) States had no ongoing programs in place for dislocated workers prior to the appropriation of funds for Title III. Indications are that the program is operating closer to capacity at this time.

IMPACT OF PERFORMANCE STANDARDS

Question: Local service delivery areas so far have generally been meeting or exceeding their performance standards, as established by the Labor Department. Has the emphasis on performance standards, which measure entered employment rates and costs per participant, affected the type or length of training provided?

Answer: The focus on performance standards has provided an incentive for SDAs to move participants into unsubsidized employment and not simply keep them in the program. Because the Department's optional adjustment model allows Governors to adjust cost standards to account for length of stay, the existence of performance standards should not influence the SDA's decisions with respect to type or length of training. However, our data do not enable us to know precisely how decisions on the type or length of training are being made at the SDA level.

Question: Has it affected the characteristics of participants or the type of service providers participating in the program?

Answer: Section 106(e) allows the Governors to vary the standards to account for local economic and other conditions, and the characteristics of those served. To assist the Governors in varying the standards, the Department has provided an adjustment model. By adjusting the standards using the Department's model, SDAs need not be concerned with any adverse impact caused by the types of clients enrolled or the length of training required. We have no evidence that the existence of performance standards has affected the characteristics of participants or the type of service providers participating in the program.

REFINING PERFORMANCE STANDARDS

Question: Do you anticipate any revisions in the performance standards for programs serving the disadvantaged? For example, do you intend to establish standards for retention in unsubsidized employment, increase in earnings, and reduction in welfare dependency, as stated in the Act?

Answer: The current standards apply through Program Year 1985. The next opportunity for revising the standards would be for the period beginning July 1, 1986 (Program Year 1986). In anticipation of the opportunity for making changes at that time, the Department has initiated studies to examine the feasibility of establishing new standards for retention, earnings gain, welfare reduction and possibly other standards. After a thorough examination of each, and an opportunity for public comment, appropriate revisions to the standards may be undertaken.

DEFINING PERFORMANCE STANDARDS

Question: What procedures do you now require to verify an unsubsidized job placement?

Answer: The Department of Labor has not established specific requirements. Verifying job placements is a process that is part of the State's overall monitoring and oversight responsibility. Under JTPA, States are required to establish program administration and management systems, such as verifying placements, to ensure compliance with the Act and regulations. The States have basic oversight responsibility to ensure that their systems are implemented and adhered to, both at the State and subrecipient levels.

CONTINUATION OF ELDERLY JOBS PROGRAM

Question: In the past, the Administration proposed elimination of the Community Service Employment Program for Older Americans. What caused you to change your mind this year, and support continuation of the program at its current level of $326 million?

Answer: The 1986 Administration budget primarily freezes the 1986 requests for domestic programs at their 1985 levels, with only selected reform, reduction, and eliminations. The Administration's 1986 request of $326 million is a continuation of the final 1985 level resulting from Conference action in the Congress.

OLDER WORKERS EXPERIMENTAL PROJECTS

Question: What has been the experience of Title V Older Worker Experimental Projects in accomplishing their objectives?

Answer: Section 502(e) of the Older Americans Act directs the Department to conduct experimental training projects with private industry, reserving 1 to 3 percent of each year's appropriation for this purpose. To implement this requirement, the Department has permitted older worker grantees to use a small portion of their grant funds for private-sector training purposes.

The experimental programs have been in effect over the past 2 years. Most of the participating grantees have utilized work experience in the private sector and on-the-job-training as their training methodologies. The primary occupational emphasis has been in the health and service areas. The program has placed over 50 percent of the participants in regular jobs in the private sector. An additional benefit to participating sponsors has been an increased awareness of the opportunities which the private sector offers for older workers. This experimental effort will therefore have a positive carryover effect on regular Title V programs.

Question: Do you recommend any changes?

Answer: The Department of Labor will award a contract to evaluate the Senior Community Service Employment Program (SCSEP) this year. As part of this evaluation, the research firm will examine the performance of the SCSEP experimental projects. Therefore, we will defer any recommendations until this evaluation has been completed.

Question: Would you recommend expanding the experimental program?

Answer: Not at the present time. We would like to await the results of the Senior Community Service Employment Program (SCSEP) evaluation.

Question: What has been the second year experience in moving experimental participants to unsubsidized employment?

Answer: The placement rate for the private sector experimental program during the second year exceeded 50 percent.

COORDINATION OF EMPLOYMENT SERVICE AND JOB TRAINING ACTIVITIES

Question: What is the status of coordination between the Employment Service and service delivery areas under the Job Training Partnership Act?

Answer: Preliminary data in phase one of the recently completed Macro Systems evaluation shows that, as yet, there is inconclusive evidence to determine the impact on JTPA-ES coordination. Much of the impetus for improved coordination has come at the State level. We attribute these findings to the point of time that the phase one evaluation was conducted, that is, the nine month transition period. More definitive information on this issue will be available on the full program year activities in subsequent phases of the evaluation.

Question: Are Employment Service plans being developed jointly with local Private Industry Councils, as required by law? Has this had any effect on the types of activities undertaken by the Employment Service?

Answer: One part of the State plan review guidelines used by ETA in approving State plans is a review of the legislative requirement for joint planning at the Service Delivery Area (SDA) level, including Private Industry Council (PIC) involvement. Through the review process, ETA has detected no issues over compliance with the requirements in the law. Phase one, preliminary findings of the Macro evaluation, is inconclusive concerning the impact that PIC involvement has had on the types of activities provided by the employment service. We attribute this to the time period covered by phase one, that is, the nine months transition to this new program year concept. Data collected on the program year, in phase two, will have more specifics on this issue.

JOB TRAINING FOR INDIANS AND MIGRANTS

Question: Has the transition from CETA to JTPA caused any significant changes in employment and training programs for Native Americans and Seasonal Farmworkers?

Answer: For these programs, the number of people served, the level of service, and the funding level are essentially the same under JTPA as they were under CETA. There have been no basic or significant changes.

Question: What technical assistance is being provided to grantees of the Native American and Migrant and Seasonal Farmworker Programs?

Answer: The Department is taking a number of steps to improve management by 402 grantees. A series of four technical assistance workshops (two have been completed) and onsite visits pertinent to financial management will be carried out through arrangements the Department has made with a CPA firm familiar with the programs and many of the grantees. Staff from that firm will also make onsite visits to selected grantees to provide related hands-on technical assistance. Additionally, grantees are provided technical assistance through the Department's issuance of bulletins to Farmworker and Indian grantees on various subjects as nececsary, and through day-to-day contact with the program office and regular onsite monitoring by Federal staff.

EXPERIENCE UNDER THE DISLOCATED WORKER PROGRAM

Question: What types of people are participating in the Dislocated Worker Assistance Program and what types of services are being provided?

Answer: While the Department does not collect specific information on the types of services provided, discussions with State staff indicate that services range from counseling, testing and job club activities to classroom and on-the-job training. Many dislocated workers are, apparently, primarily interested in assistance which will enable them to locate employment opportunities since it has been a long time since they actually were involved in looking for employment. While the Department did not collect specific information on the types of services provided during the transition period, preliminary estimates from the Job Training Longitudinal Survey for the first 6-months of PY 1984 indicate that 23 percent of the enrolles were assigned to classroom training, 20 percent to OJT and 42 percent to job search assistance activities.

Question: Is the program providing more job search assistance and less formal retraining than you had originally anticipated? If so, do you have any reasons why this is occurring?

Answer: The cost estimates presented in last year's budget were patterned on earlier experimental programs which used most of the funds available to finance high-cost, long term training. Actual information reported by the States indicates that program funds were used mainly to provide services such as job search assistance, rather than the expected long-term training. Based on discussions with State staff, this appears to be primarily a result of the wishes expressed by the dislocated workers themselves.

ALLOCATION OF SUMMER YOUTH EMPLOYMENT PROGRAM

Question: For the summers of 1984 and 1985, Congress appropriated an additional $100 million with language designed to alleviate the effects of the change in allocation formula, from CETA to JTPA, on local summer youth jobs programs. Without these additional funds and the language contained in the current appropriations law, what would be the effect of the new formula on local summer youth programs, particularly in large urban areas?

Answer: The Department believes that without the proposed language which permits targeting of summer funds to areas which have had traditionally large programs, the redistribution of funds caused by the JTPA three part substate allocation formula last summer will continue. Last summer, as a result of this formula, a number of geographic areas received substantial decreases in their relative share of the funds compared to past years. These decreases were especially severe in larger cities where large numbers of eligible youth reside and relatively fewer unsubsidized jobs are available. The offsetting increases went in many cases to other areas of the country which had no demonstrated need for this assistance and which were unprepared to use it. These imbalances led Congress to appropriate additional funds targeted specifically to areas which had the greatest funding decreases.

The proposed language which accompanies the rescission request would continue this targeting of funds without increasing total outlays for the program. Even after the proposed rescission there will be approximately $190 million more available during the 1985 summer than was spent in 1984 for the program.

ALLOCATION OF SUMMER YOUTH FUNDS

Question: Can you propose a permanent solution to the problem raised by the new allocation formula, to avoid the need for special language in future appropriations acts, particularly if funding for the summer program is reduced?

Answer: We recognize that appropriation language is only a temporary solution to this problem. However, we believe that the unintended distributional effects of the existing formula need to be addressed quickly to avoid perpetuating the problems. Therefore we recommend the use of appropriation language to rectify the problem at this time. At such time as the authorizing committees consider amendments to JTPA, we will be prepared to present language which will permanently address concerns with the present formula.

DATA ON SUMMER JOBS PROGRAM

Question: Have you collected and published any data in the summer youth program to indicate any changes which may have occurred since enactment of JTPA?

Answer: There are no indications of any changes in the summer youth program since enactment of JTPA.

Question: In particular, do you know to what extent work experience in the for-profit sector is being provided to youngsters in the summertime, now that it is allowed?

Answer: The Department does not collect this type of information.

SUPPORT SERVICES

Question: What impact have the restrictions on supportive services, allowances, and work experience had on the characteristics of participants or programs under Title II-A?

Answer: A comparison of the characteristics of individuals terminating from JTPA with the characteristics of individuals who participated in previous training programs shows few differences in characteristics between the two groups; in fact JTPA participants tend to be more disadvantaged. Therefore, we would conclude that these changes have had little or no impact on the characteristics. With respect to length of stay, there are no data to indicate either for JTPA or previous programs the relationship between supportive services, allowances, and work experience and length of stay.

NATIONAL STATISTICS

Question: What sort of data are you collecting at the national level about participants and programs under Title II-A of JTPA?

Answer: An annual report is required which provides information about individuals terminating from the program. A copy of the summary report for the period ending June 30, 1984 follows for your information.

JTPA
Title IIA

U.S. TOTALS

Report Period:
Oct 1, 1983 - June 30, 1984

No. of SDAs Included: 592

I. PARTICIPATION AND TERMINATION SUMMARY	ADULTS	WELFARE	YOUTH
A. Total Participants	369,071	107,383	246,454
B. Total Terminations	236,704	65,004	153,412
1. Entered Employment	158,227	35,744	84,024
a. Entered Apprenticeship			223
b. Entered Armed Forces			1,018
2. Youth Enhancement Terms			12,706
a. Entered Non-Title II			1,528
b. Returned School			3,671
c. Completed Education			6,106
3. All Other Terminations	78,477	29,260	56,682

II. TERMINEES PERFORMANCE MEASURES INFORMATION	ADULTS	WELFARE	YOUTH
1. Male	123,434	23,683	79,047
2. Female	113,270	41,321	74,365

JTPA
Title IIA

U.S. TOTALS

Report Period:
Oct 1, 1983 - June 30, 198

No. of SDAs Included: 592

II. TERMINEES PERFORMANCE MEASURES INFORMATION	ADULTS	WELFARE	YOUTH
3. 14-15			4,867
4. 16-21			148,545
5. 22-54	228,690	63,864	
6. 55 and Over	8,014	1,140	
7. School Dropout	61,424	19,653	41,675
8. Student (hs or less)	2,492	703	47,220
9. High School Graduate	172,788	44,648	64,517
10. Single head of household	52,555	28,896	13,468
11. White	127,978	30,288	73,950
12. Black	72,351	25,229	53,027
13. Hispanic	26,421	6,834	20,111
14. American Indian	2,982	916	2,111
15. Asian or Pac. Islander	6,972	1,737	4,213
16. Limited English	12,250	3,037	4,592
17. Handicapped	17,016	3,656	11,581
18. UI Compensation Claimant	27,739		4,091
19. Unemployed	191,645	55,209	93,443
20. Youth Welfare Recipient			39,138
21. Av Weeks Participated	12	12	12
22. Av Hourly Wage	$4.85	$4.63	$4.06
23. Total Program Costs	$526,292,025		$317,912,947

PROGRAM TOTALS	ADULTS	WELFARE	YOUTH
Total Participants	364,071	107,383	245,454
Total Terminations	236,704	65,004	153,412
Total Program Costs	$526,292,025		$317,912,947

PERFORMANCE INDICATORS	ADULTS	WELFARE	YOUTH
Entered Employment Rate	67 %	55 %	55 %
Positive Term. Rate			63 %
Cost per Ent. Employment	$3,326		
Cost per Pos. Term.			$3,287
Expend. as % of Total			38 %
Enrollment as % of Total			40 %
Av. Weeks Participated	12	12	12
Av. wage at Placement	$ 4.85	$ 4.63	$ 4.06

TERMINEE CHARACTERISTICS (%)	ADULTS	WELFARE	YOUTH
Male	52 %	36 %	52 %
Female	48 %	64 %	48 %
14-15			3 %
16-21			97 %
22-54	97 %	98 %	
55 and Over	3 %	2 %	
School Dropout	26 %	30 %	27 %
Student (hs or less)	1 %	1 %	31 %
High School Graduate	73 %	69 %	42 %
Single Head of Hshld	22 %	44 %	9 %
White	54 %	47 %	48 %
Black	31 %	39 %	35 %
Hispanic	11 %	11 %	13 %
American Indian	1 %	1 %	1 %
Asian or Pac. Islander	3 %	3 %	3 %

JTPA
Title IIA
U.S. TOTALS

Report Period:
Oct 1, 1983 - June 30, 1984
No. of SDAs Included; 592

Limited English	5 %	5 %	3 %
Handicapped	7 %	6 %	8 %
UI Compensation Claimant	12 %		3 %
Unemployed	81 %	85 %	61 %
Youth welfare Recipient			26 %

NATIONAL STATISTICS

Question: Are you establishing uniform definitions of terms to enable Congress and other interested parties to have an accurate picture of the program nationwide?

Answer: In the spirit of the Act, the Department has left the establishment of most definitions to the States except for those contained in the Act and the regulations.

COORDINATION OF JOB TRAINING PROGRAMS

Question: What are you doing at the Federal level to coordinate training programs for the disadvantaged under the block grant program with related activities such as the Work Incentive Program, the Employment Service and vocational and adult education?

Answer: With the Federal role shifting to broad policy direction rather than direct management and operation of the programs, coordination of activities/programs within a given State is the responsibility of the State. The Governor, through the State planning process, is required to approve plans developed within the State based on the Governor's goals and policies. Indications are that the States have taken this responsibility seriously and are moving more vigorously to emphasize coordination in the utilization of training and employment resources.

GOVERNORS' SET-ASIDE FUNDS

Question: How are Governors spending their set-aside funds for education, older workers' programs, and incentive awards? Are you gathering any national data on how these funds, which amount to 17 percent of Title II-A appropriations, are being used?

Answer: The States are taking a variety of different approaches in program options for the various funding set-asides. A discussion of each follows.

State Education Coordination and Grants. Programs under this funding set-aside show the greatest amount of commonality. Typically, funds are provided to the State education agency, which distributes the funds to local education agencies that have entered into cooperative agreements, including the provision of matching funds, with local service delivery areas (SDAs). Some SDAs are taking innovative steps with these funds, such as providing remedial education to youth who might otherwise be likely to drop out of school. In some States, offenders receive vocational training while in penal institutions. Matching funds are provided from a variety of sources, most commonly in-kind services, often through education and training services provided to economically disadvantaged persons through the public schools.

Training Programs for Older Individuals. There is more diversity in the ways funds under this set-aside are used. There are three primary approaches. Commonly, the funds will be provided directly to State or area agencies on aging for the operation of programs. Another approach is to distribute the funds by formula to local service delivery areas, with the requirement that the funds be used to provide employment and training services to economically disadvantaged older individuals. The third common approach is to provide the funds to Senior Community Service Employment Program (SCSEP) sponsors, who operate similar programs under Title V of the Older Americans Act. Coordination between SCSEP and JTPA is an important new development, occasioned by the three percent set-aside.

Incentive Grants and Technical Assistance. Six percent of available Title II-A funds is set aside to provide incentive awards, including incentives for serving hard-to-serve individuals, for programs exceeding the Secretary's performance standards and for providing technical assistance to service delivery areas that do not qualify for incentive grants. The Department has only limited knowledge about how these funds are being used, as the first full program year of operations has not yet concluded. Specific National data on how these funds are being spent is not collected.

STATUS OF NEW JOB TRAINING SYSTEM

Question: Please give your assessment of the health of the new job training system established under the Job Training Partnership Act (JTPA). Specifically, what is the state of relationships between all parties in the system -- the Private Industry Councils, local elected officials, and State governments?

Answer: The new job training system is in place and is performing in a highly effective manner. Through June 30, 1984, job placements, which are the goal of the system, are running at a rate of 62 percent with positive outcomes 65 percent of all terminees. Further, available data indicate that 94 percent of all participants are economically disadvantaged. With respect to the relationships between the major actors in the system, the Department feels that there is a strong, cooperative and effective relationship between the PICs and the local elected officials and between the States and all local partners. This relationship has been very good since the start of the program and the Department feels that it is getting stronger and more effective as time goes by.

COMPARISON OF CETA AND JTPA

Question: What do you know so far about differences in training programs for the disadvantaged under CETA and JTPA?

Answer: In the basic Title IIA programs, an average enrollment level of approximately 200,000 was maintained during the 9-month transition period. Over 73 percent of the funds expended went to the support of training activities, exceeding the JTPA requirement that at least 70 percent of the funds be used for training.

Entered employment rates differed widely for JTPA and CETA. According to the Job Training Longitudinal Survey, entered employment rates for JTPA were 69 percent for adults, 57 percent for youth, and 64 percent overall for the 9-month transition period. This compares to rates for CETA for the period ending June 30, 1983 of 59 percent for adults, 40 percent for youth, and 50 percent overall.

JTPA AND CETA COMPARISON

Question: How do characteristics of clients compare?

Answer: Following is a table comparing CETA terminee characteristics through September 30, 1983 and JTPA terminee characteristics through September 30, 1984. The only significant variation appears in the education and age categories. These are most likely due to a decrease in the in-school work experience activity, with the obverse side, high school or more status, increasing as a statistic.

	CETA 1983 % of Total	JTPA 1984 % of Total
Total	100 %	100%
Male	51	49
Female	49	51
Under 22	44	39
22 or Over	56	61
School Dropout	26	24
High School or Less Student	17	13
High School Grad. or More	57	63
White, Non-Hispanic	52	54
Black, Non-Hispanic	33	32
Hispanic	12	10
Native American/Other	4	4

Question: Are there differences in the type of training programs being offered or in the average length of time an individual remains in training?

Answer: The major types of services provided to participants in JTPA are classroom training, on-the-job training and job search assistance. Through the transition period, over 60 percent of all participants were in classroom or on-the-job training with the remainder in job search assistance programs and other services. Below is a table comparing average enrollment in JTPA and CETA activities.

Length of training is shorter under JTPA than it was under CETA. Under CETA's Title II-B/C, the average length of training for adults was 22.2 weeks; for youth it was 20.9 weeks. Corresponding figures for JTPA are 12 weeks for both adults and youth. The longer participation in CETA may be explained, at least in part, by the more frequent use of work experience under CETA than under JTPA. Under CETA, work experience typically lasted 26 weeks while other types of training were generally shorter.

Average Enrollment

	CETA FY 1983		JTPA TP 1984 (9 Mths.)	
	Number	% of Total	Number	% of Total
Total	324,009	100.0%	203,595	100.0%
1. Classroom Training	119,574	36.9	93,547	45.9
2. On-the-Job Training	40,290	12.4	42,999	21.1
3. Job Search Assistance	N.A.	N.A.	28,785	14.1
4. Work Experience	66,845	20.7	N.A.	N.A
5. Other*	97,300	30.0	38,264	18.9

*In both CETA and JTPA, this includes participants in the holding status and any other participants reported enrolled, but not in one of the defined statuses.

DISLOCATED WORKER PROGRAM (TITLE III OF JTPA)

Question: The Department is proposing a $120 million rescission to this program for the current program year. In view of the expected major shift in jobs from manufacturing to the service sector, and the high levels of unemployment in steel and auto industries, why is the Department making their request?

Answer: The Department is requesting a rescission to this program because the funds are not needed due to the availability of substantial unexpended balances carried over from prior years. At the end of the transition period $127 million was unexpended in Title III; $188.6 million is expected to be unexpended at the end of PY 1984 (June 30, 1985). These prior years' funds when combined with the post-rescission 1985 budget authority of $103 million will provide ample resources to enable States to serve the same number of participants in 1985 as in 1984.

Question: Please provide for the record a listing by State of where these funds are coming from.

Answer: Following is a listing of State allotments at both the enacted level and the proposed post-rescission level of $103 million.

It should be noted that there are anticipated to be $188.6 million in unexpended balances in this program as of June 30, 1985. This would mean States would have available $291.6 million for PY 1985, more than was appropriated for Title III services in PY 1984.

U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION
OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS
DISLOCATED WORKER PROGRAM ANALYSIS

	ENACTED LEVEL	REVISED LEVEL	EFFECTS OF RESCISSION
ALABAMA	4,375,377	2,020,914	-2,354,463
ALASKA	423,383	195,553	-227,830
ARIZONA	1,323,435	611,273	-712,162
ARKANSAS	1,646,983	760,714	-886,269
CALIFORNIA	17,999,670	8,313,749	-9,685,921
COLORADO	1,154,720	533,346	-621,374
CONNECTICUT	930,630	429,842	-500,788
DELAWARE	316,616	146,239	-170,377
DIST OF COLUMBIA	680,962	314,525	-366,437
FLORIDA	5,228,930	2,415,156	-2,813,774
GEORGIA	2,560,273	1,182,548	-1,377,725
HAWAII	376,247	173,782	-202,465
IDAHO	604,865	279,377	-325,488
ILLINOIS	10,738,301	4,959,843	-5,778,458
INDIANA	4,771,790	2,204,011	-2,567,779
IOWA	1,737,526	802,534	-934,992
KANSAS	854,101	394,495	-459,606
KENTUCKY	3,241,553	1,497,219	-1,744,334
LOUISIANA	3,674,881	1,697,367	-1,977,514
MAINE	645,335	298,069	-347,266
MARYLAND	1,848,488	853,786	-994,702
MASSACHUSETTS	2,477,850	1,144,478	-1,333,372
MICHIGAN	11,169,526	5,159,019	-6,010,507
MINNESOTA	2,468,712	1,140,257	-1,328,455
MISSISSIPPI	2,287,103	1,056,375	-1,230,728
MISSOURI	3,540,734	1,635,406	-1,905,328
MONTANA	546,566	252,450	-294,116
NEBRASKA	423,466	195,592	-227,874
NEVADA	702,950	324,681	-378,269
NEW HAMPSHIRE	222,742	102,881	-119,861
NEW JERSEY	4,006,433	1,850,505	-2,155,928
NEW MEXICO	844,531	390,075	-454,456
NEW YORK	10,646,683	4,917,526	-5,729,157
NORTH CAROLINA	3,482,448	1,608,485	-1,873,963
NORTH DAKOTA	205,258	94,805	-110,453
OHIO	11,236,251	5,189,838	-6,046,413
OKLAHOMA	2,031,292	938,220	-1,093,072
OREGON	2,493,309	1,151,618	-1,341,691
PENNSYLVANIA	11,134,643	5,142,907	-5,991,736
PUERTO RICO	4,111,275	1,898,930	-2,212,345
RHODE ISLAND	545,213	251,825	-293,388
SOUTH CAROLINA	1,946,080	898,862	-1,047,218
SOUTH DAKOTA	161,262	74,484	-86,778
TENNESSEE	3,934,745	1,817,394	-2,117,351
TEXAS	7,474,223	3,452,220	-4,022,003
UTAH	803,640	371,188	-432,452
VERMONT	231,705	107,021	-124,684
VIRGINIA	1,616,507	746,638	-869,869
WASHINGTON	4,019,601	1,856,587	-2,163,014
WEST VIRGINIA	2,770,400	1,279,602	-1,490,798
WISCONSIN	3,883,145	1,793,560	-2,089,585
WYOMING	254,278	117,447	-136,831
AMERICAN SAMOA	27,934	12,902	-15,032
GUAM	116,295	53,715	-62,580
NORTHERN MARIANAS	11,084	5,120	-5,964
TRUST TERRITORIES	145,850	67,365	-78,485
VIRGIN ISLANDS	142,200	65,680	-76,520
NATIONAL RESERVE	55,250,000	25,750,000	-29,500,000
NATONAL TOTAL	222,500,000	103,000,000	-119,500,000

DISLOCATED WORKER PROGRAM (TITLE III OF JTPA)

Question: Why haven't the States been able to utilize these funds?

Answer: There are two major reasons why the dislocated worker funds were not being utilized as quickly as anticipated. The first is that $110 million was made available while the States were still in the process of implementing the overall program. This placed a burden on the States to implement a program when, in fact, they were still in the process of establishing a system to administer this as well as other programs.

The second reason is that States had no ongoing programs in place for dislocated workers prior to the appropriation of funds for Title III. Thus, they had to develop a new delivery system establishing and utilizing grant and contract mechanisms with agencies that had not necessarily been part of the training and employment delivery system in the past. All of this contributed to the slow startup of the program; however, indications are that, now that all of these steps have been taken, the system has been put into place and the program is operating close to full capacity at this time.

The Department recognizes that this is an important area and, as reflected by the outyears in the budget, anticipates that additional funds will be needed in the future after unexpended balances are utilized.

Question: What type of technical assistance has the Department provided the States to ensure that effective training programs were developed?

Answer: Technical assistance can contribute greatly to program effectiveness if the problems and issues facing program operators are recognized and the technical assistance is structured to properly address them. With this in mind the Department has been keeping a close watch on the dislocated worker program. It has been the topic of discussion at a number of meetings with State staff. Special trips have been undertaken by DOL staff to States with both excellent and slow programs to discuss the issues. In addition, the Department developed case studies of programs to aid the reemployment of dislocated workers located in Alameda County, CA; Buffalo, NY; Lehigh Valley, PA; Mid-Willamette Valley, OR; Milwaukee, WI; and Yakima, WA. This was one of several actions undertaken in response to the widespread layoffs and plant closings that have occurred, especially in manufacturing industries. The Department also awarded the National Center on Occupational Readjustment a grant to develop a comprehensive occupational readjustment information base to assist companies in formulating specific plans for helping their employees move quickly into jobs during the closing of business operations. One specific product which has been widely distributed is an employer's handbook that examines successful planning and program options available to managers facing work force reductions or plant closings.

Once we are satisfied that sufficient information about the program is available and that appropriate solutions have been identified, we will put into place other necessary technical assistance. In the meantime, the States should also continue to address issues involving the dislocated worker program.

The Department has taken the lead in other areas. We have co-sponsored, with the National Alliance of Business, meetings which address the needs of dislocated workers and the dislocated worker program. These meetings have presented a great deal of information about the program as well as presenting ideas on how to address the needs of the dislocated worker. In particular, results of experimental dislocated worker programs, funded by the Department, have been made available to State staff at such meetings.

SUMMER YOUTH EMPLOYMENT PROGRAM

Question: The recent budget submission indicates that $100 million in summer youth funds is proposed for rescission in fiscal year 1985. Youth unemployment, particularly minority youth unemployment, continues to be high. Furthermore, research has shown that when summer employment for youth is made a continuation of the regular education process, positive results occur in youth returning to school and subsequently finding work. Please show how the money would be allocated by State if the rescission is not approved.

Answer: Following is a table presenting State allotments under the enacted appropriation. Under the enacted level, a pool of $100 million will remain available for later distribution to States with service delivery areas which have the greatest percentage of funding decreases from 1984 to 1985.

U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION
OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS
PY 1984 TITLE II-B ANALYSIS

	ENACTED LEVEL
ALABAMA	17,051,881
ALASKA	1,775,415
ARIZONA	7,898,757
ARKANSAS	7,744,872
CALIFORNIA	74,607,971
COLORADO	6,556,684
CONNECTICUT	7,480,284
DELAWARE	1,775,415
DIST OF COLUMBIA	6,071,659
FLORIDA	25,489,976
GEORGIA	13,475,335
HAWAII	2,147,781
IDAHO	2,838,348
ILLINOIS	38,423,704
INDIANA	17,090,312
IOWA	6,753,877
KANSAS	4,019,344
KENTUCKY	13,530,328
LOUISIANA	15,766,663
MAINE	3,197,501
MARYLAND	9,463,689
MASSACHUSETTS	15,155,266
MICHIGAN	37,539,857
MINNESOTA	9,612,580
MISSISSIPPI	10,042,816
MISSOURI	14,510,382
MONTANA	2,523,695
NEBRASKA	2,833,087
NEVADA	2,532,971
NEW HAMPSHIRE	1,775,415
NEW JERSEY	19,586,010
NEW MEXICO	4,537,868
NEW YORK	46,671,914
NORTH CAROLINA	15,337,543
NORTH DAKOTA	1,775,415
OHIO	36,731,889
OKLAHOMA	8,551,134
OREGON	9,284,867
PENNSYLVANIA	38,851,764
PUERTO RICO	25,509,387
RHODE ISLAND	2,826,536
SOUTH CAROLINA	9,199,817
SOUTH DAKOTA	1,775,415
TENNESSEE	16,094,934
TEXAS	36,770,844
UTAH	3,740,329
VERMONT	1,775,415
VIRGINIA	11,362,506
WASHINGTON	14,912,266
WEST VIRGINIA	9,369,825
WISCONSIN	14,039,224
WYOMING	1,775,415
AMERICAN SAMOA	55,003
GUAM	670,830
NORTHERN MARIANAS	25,730
TRUST TERRITORIES	74,374
VIRGIN ISLANDS	380,370
NATIVE AMERICANS	13,176,511
NATIONAL TOTAL	724,549,000
NATIONAL RESERVE	100,000,000
GRAND TOTAL	824,549,000

SUMMER YOUTH EMPLOYMENT PROGRAM

Question: What efforts has the Department made to work with the Department of Education and the State to achieve a better linkage between the education system and the summer jobs program?

Answer: JTPA funds for summer youth employment and training programs are granted through the Governor, acting as the recipient of funds for the State. One purpose of the preeminent State role under JTPA is that the State may utilize its educational system to serve those most in need, including summer youth. We believe that the States are, and will continue, doing just that.

In addition, $30 million--20 percent of the 8 percent Title IIA set-aside for State Education Coordination and Grants--is available to facilitate coordination of education and training services for eligible JTPA participants, including summer youth. Frequently, community schools provide worksites for summer youth as well as instructors for new skills to be learned by summer trainees.

Such coordination takes place at the local level in part because the education agencies represented on the Private Industry Council are able to facilitate the linkage of summer youth needs and interests with those resources known to be available in the education community.

Question: What is the Department's opinion as to why States have not been able to fully utilize funds appropriated for this program?

Answer: The Department feels that there are three reasons for the underexpenditure of funds in the summer youth program. The reasons are:

1. The lateness of the supplemental appropriation for the 1984 summer program resulted in an inability on the part of some program operators to locate eligible participants between the time the funds were made available and the end of the summer program period.

2. The current statutory formula targets funds to areas which may have less need than some other areas.

3. The sizeable economic growth, especially in many of the suburban jurisdictions, resulted in large numbers of private sector summer jobs being available.

JOB CORPS

Question: The Administration has been critical of the costliness of the program. In doing so, it has cited the cost per slot of $15,000 and compared it to the benefits per participant. It has been suggested that a more appropriate comparison would be the cost per participant to the benefits per participant. In a February 4, 1985, press conference, Mr. Ford stated that "Despite our efforts to constrain costs, the program became increasingly expensive and we have reached the point where the results no longer justify the costs." Can you provide us with the basis for the conclusion that the results no longer justify the costs?

Answer: The Job Corps cost of $15,000 per slot each year is extremely high. Less costly training and employment services are available under Title IIA of the Job Training Partnership Act. Since participants stay in Job Corps on average about 8 months the total cost for the average youth entering Job Corps was approximately

$10,000 last year. A comparable cost per participant in a Title IIA JTPA program was $1,500. The differences between the two programs is due to the shorter length of stay in JTPA (3 months versus 8 months for Job Corps) and the lower program costs of non-residential programs.

It should also be noted that the rate of estimated successful outcomes (reported outcomes adjusted upward for assumed job and other placements for the 20-30 percent of terminees not recorded in the placement data) for Job Corps terminees has declined in a relatively steady manner since FY 1977. This has caused a corresponding escalation to the "cost per positive outcome" in nominal and constant dollar (i.e. inflation adjusted) terms. This trend can be seen in the table provided below:

	Estimated Positive Outcome Rate	Cost/Estimated Positive Outcome (in Nominal $)	Cost/Estimated Positive Outcome (in Constant '84 $)
FY 1977	78.1%	$ 6,423	$10,534
FY 1978	70.8%	8,794	13,428
FY 1979	70.9%	10,351	14,553
FY 1980	61.5%	11,702	15,061
FY 1981	62.1%	12,344	14,467
FY 1982	64.5%	14,705	16,101
FY 1983	59.4%	17,010	17,809
FY 1984	58.8%	17,478	17,478

Question: In reaching this conclusion, did you use the cost per program participant of about $6,600 or the cost per slot of about $15,000?

Answer: We examined the cost per new enrollee, cost per positive outcome, cost per participant and the cost per slot in reaching our determination that the program is too expensive to continue. As previously indicated, the total average cost of training one enrollee in Job Corps is approximately $10,000. The cost per participant cited in the question is the total spent each fiscal year per participant. However, many participants have a stay in the program of only several days while others have much longer stays which may extend into two different fiscal years. We do not believe that averaging into a cost figure the amounts spent on enrollees who leave the program before it can possibly improve their employment prospects provides a figure which would be useful in assessing the success of the program.

Question: The Administration has stated in its budget proposal that the target group of the Job Corps--disadvantaged youth aged 16-22--can be served better under the Job Training Partnership Act (JTPA) program. The Job Corps, a residential program, provides enrollees with a comprehensive array of services including education, vocational skills training, counseling, health care, and support services. Could you explain how JTPA, which does not offer this type of intensive service, can better serve disadvantaged youth?

Answer: Under JTPA, more youth can be served at a lower cost than in Job Corps. Title II-A authorizes education and basic skills training, vocational exploration, on-the-job training and job counseling. In addition, some support services, including transportation, health care, child care and meals, may be provided to participants. States have a great deal of flexibility under JTPA to tailor programs to meet local needs, including the authority to undertake programs similar to the Job Corps.

Question: In discussing the reasons for the proposed termination of the Job Corps, Under Secretary of Labor Ford B. Ford stated that "a considerable sum" would have to be spent on capital improvements to keep the 107 centers safe. How much will have to be spent in 1985 on safety repairs?

Answer: Thus far, for Program Year 1985, $18.6 million for the correction of immediate life threatening and safety deficiencies have been identified in facility surveys. This does not include further needs likely to arise as the result of breakdowns, unexpected deterioration, and the impact of storms, floods and other natural hazards. It also does not include expenditures for fixing other code violations which do not pose an immediate threat, for the repair or replacement of structures reaching the point of being unserviceable, and for other construction that will aid in the achievement of programmatic goals of the Job Corps. These latter expenditures which, according to outside surveys, will likely exceed $150 million over the next 5 years, must be considered when discussing the Job Corps and the costs of continuing it.

Question: Which centers have these safety problems?

Answer: Safety and health problems needing correction in PY 1985 have been identified in facility surveys in the following centers:

LIFE SAFETY PROJECTS

o	Cassadaga JCC	Cassadaga NY
o	Redrock JCC	Lopez PA
o	Atlanta JCC	Atlanta GA
o	E.C. Clement JCC	Morganfield KY
o	Turner JCC	Albany GA
o	Kittrell JCC	Kittrell NC
o	Atterbury JCC	Edinburg IN
o	Cleveland JCC	Cleveland OH
o	Guthrie JCC	Guthrie OK
o	Little Rock JCC	Little Rock AR
o	St. Louis JCC	St. Louis MO
o	Clearfield JCC	Clearfield UT
o	Kicking Horse JCC	Ronan MT
o	Phoenix JCC	Phoenix AZ
o	Whitney Young JCC	Simpsonville KY
o	San Jose JCC	San Jose CA
o	Tucson JCC	Tucson AZ
o	Flatwood CCC	Coeburn VA
o	Trapper Creek CCC	Darby MT
o	Collbran CCC	Collbran CO
o	Weber Basin CCC	Ogden UT

JOB TRAINING PARTNERSHIP ACT EVALUATION

Question: Labor is using its Job Training Longitudinal Survey (JTLS) to evaluate JTPA's long-term impact. An unsettled question, at this time, is the availability of earnings histories data, from the Social Security Administration, on the study population. If this information is not available, what impact will this have on Labor's ability to evaluate JTPA? What alternative courses of action exist?

Answer: The Department of Labor is working with the Bureau of Census to resolve problems associated with accessing individual earnings histories from Social Security Administration records. The availability of such records is important but not crucial to the Department's evaluation efforts regarding JTPA. In the event that such records are not available, the Department's efforts to measure the net impact results of JTPA program participation will be limited to shorter-term impacts. The labor market and welfare experiences of JTPA participants up to two years after terminating the program can be compared with the experiences of a comparison group of individuals over the same time period who did not participate in the programs. The comparison groups and related labor market and welfare experiences will be drawn from the Survey of Income and Program Participation (SIPP) and Survey of History of Work (SHOW). Both surveys are conducted by the Bureau of Census and will enable the Department to develop short-term impact analyses. Lack of access to Social Security earnings records will mean only that program impact on participant earnings cannot be measured beyond two years after leaving the program.

Question: Labor's JTLS will provide a nationwide picture of JTPA's impact. Of equal importance, it would seem, would be the ability to compare the performance of individual States. However, Labor's longitudinal study will not permit an evaluation at the State level and a comparison between the States. Wouldn't such comparisons be useful to Labor, as well as to the States, in carrying out their oversight responsibilities?

Answer: State by State performance comparisons would require that the present JTLS sample size of approximately 24,000 new entrants be increased at least fivefold to 120,000 to make the survey results representative at the State level. In our judgement, such an expansion would not be cost effective. Furthermore, the present administrative reporting requirements provide us with sufficient information to track performance at the national, State and service delivery area levels.

Question: Labor has established performance standards against which a State governor can measure the performace of individual service delivery areas within the State. However, comparisons of performance between States or between SDAs in different States may not be possible because each governor can tailor these standards to economic, demographic, and programmatic conditions in each SDA. Such adjustment methods are not standarized. Won't this lack of standardization affect comparability and lead to invalid comparisons and the inability to readily identify exemplary programs?

Answer: The purpose of the performance standards established by the Governor for each SDA is for rewarding good performance and identifying poor performance in a consistent manner within a State. Governors have authority under the law to make such adjustments so long as they are within the parameters set by the Secretary. Judgements regarding exemplary programs are to be made within a State, and the Governor is responsible for making those judgements in an equitable manner. The Department does collect data through the Job Training Longitudinal Survey which provides the basis for determining how the program is performing nationally. It indicates the characteristics of those served, their outcomes at termination, and their longer term circumstances.

JOB CORPS

Question: The Administration is proposing to eliminate the Job Corps program and has stated that the States and localities will continue to have Federal vocational education grants and the 40 percent youth provision under JTPA Title II-A to provide training to those now in Job Corps. The Administration is not requesting any additional funds for Title II-A in their budget request. Where will funds come from to serve this additional population group?

Answer: We do not believe additional funds are required to serve Job Corps-eligible youth. Since these youth are located throughout the country, no single service delivery area will be overly burdened in absorbing this target population for provision of training and employment services.

Question: It is estimated that, currently, JTPA Title II-A is capable of serving only 3 to 5 percent of the eligible population. Won't adding potential applicants from Job Corps only compound this shortfall?

Answer: Job Corps enrolls approximately 58,000 new participants per year. This is 12 percent of the number of youth participants who will be served under JTPA Title II-A programs in Program Year 1985. Since potential applicants from Job Corps are located throughout the country, this increase will have a negligible impact on SDAs.

Question: Many in the employment and training community are concerned that certain JTPA program characteristics encourage creaming, i.e., serving those needing only limited amount of time and training funds to prepare for the world of work. Job Corps participants, on the other hand, are at the other end of the participant spectrum -- those needing the greatest amount of training. If, in fact, creaming is occurring and JTPA funds are limited, is it realistic to expect Job Corps participants to be served under JTPA?

Answer: We do not agree that States are "creaming" in their JTPA grant programs. Our evaluation data show that, on the whole, JTPA is reaching individuals who are substantially more disadvantaged than the general eligible population. JTPA participants have lower incomes and have experienced longer periods of unemployment than the general disadvantaged population. Over 80 percent of adult Title II-A enrollees have been unemployed for 14 weeks or more. This is true for only 17 percent of the eligible adult population. A substantially higher proportion of JTPA enrollees than the disadvantaged population are youth (14-21). Minorities and AFDC recipients are represented to a greater extent in the program than among disadvantaged eligibles.

Our data indicate that about 95 percent of JTPA enrollees are disadvantaged, 40 percent are receiving public assistance, and 46 percent are from minority groups. Based on this data, we feel that to suggest that the system is "creaming" is inappropriate.

States have the flexibility to tailor programs to meet the needs of their own particular target populations through any combination of remedial education, skills training, supportive services, job counseling, or other approaches. We, therefore, are of the opinion that it is entirely realistic to expect Job Corps participants to be served under the JTPA block grant.

JOB TRAINING PARTNERSHIP ACT TECHNICAL ASSISTANCE

Question: Labor funds public interest groups to provide JTPA technical assistance to the States and SDAs. These groups serve different constituents with varying needs. Because many of the issues and concerns related to JTPA are national in nature, how does ETA ensure that the guidance provided is consistent? What level of funding is provided to these groups for technical assistance?

Answer: The Department reviews all papers produced by these groups pursuant to the grant to assure that the positions in the papers are consistent. It should be noted, however, that these groups, like many others, can and do issue their own interpretations of issues which are not subject to DOL concurrence. The grants with public interest groups are in the $200,000 to $300,000 annual range.

Question: What is the level of funding and number of staff ETA has assigned to this task?

Answer: The funding level requested for the entire technical assistance effort for Program Year 1985 is $3.8 million. There are currently a total of six professional and one clerical staff assigned to this effort.

Question: Under Section 452 of JTPA, the Secretary of Labor is to establish a comprehensive program of employment and training research, and developmental and demonstration projects. What efforts does Labor have underway in this regard? In view of the reduced funding request for Title IV-D of the act, what will be the impact on future efforts in this area?

Answer: Our overall research and evaluation budget places top priority on evaluating the progress and effectiveness of JTPA. The major instrument for doing this is the Job Training Longitudinal Survey (JTLS), which commands the bulk of our funds. It is to be noted that research and evaluation budget authority is scheduled to rise by $3 million from $12.2 million in FY 1985 to $15.2 million requested in FY 1986.

As in the past, DOL continues to conduct a comprehensive program of employment and training research, developmental and demonstration projects. While still addressing long-standing labor market issues and problems, much of our research now is being directed to new requirements, such as the need for data and methodologies to support the performance standards mandated by JTPA. Operational JTPA concerns and the National Longitudinal Surveys of Labor Market Experience (NLS) are other current research emphases.

Among the ongoing research efforts are the following:

- National Longitudinal Surveys (NLS), a project which since 1966 has been tracking the experience of various demographic groups as they progress through their working life;
- an assessment of what has been learned from youth programs, particularly from activities under the Youth Employment and Demonstration Projects Act (YEDPA);
- development and demonstration of the potential of help wanted advertisements to assist Service Delivery Areas (SDAs) in meeting JTPA's job placement requirements;
- development for State use of a methodology for establishing Employment Service performance standards to be applied in sub-State areas;
- development of a comprehensive occupational readjustment information base that may be used by companies during the closing of business operations to assist them in formulating specific plans for helping their employees move quickly into other jobs; and
- an examination of the operations and effectiveness of the Senior Community Service Employment Program (SCSEP).

JOB TRAINING PARTNERSHIP ACT

Question: Twenty-two percent of the Title II-A funds allocated to the States is retained by the states for use in funding specific purposes outlined in the act. What information do you have on how the states are using these funds? What is the source of this information?

Answer: The States are taking a variety of different approaches in program options for the various funding set-asides. A discussion of each follows.

State Education Coordination and Grants. Programs under this funding set-aside show the greatest amount of commonality. Typically, funds are provided to the State education agency, which distributes the funds to local education agencies that have entered into cooperative agreements, including the provision of matching funds, with local service delivery areas (SDAs). Some SDAs are taking innovative steps with these funds, such as providing remedial education to youth who might otherwise be likely to drop out of school. In some States, offenders receive vocational training while in penal institutions. Matching funds are provided from a variety of sources, most commonly in-kind services, often through education and training services provided to economically disadvantaged persons through the public schools.

Training Programs for Older Individuals. There is more diversity in the ways funds under this set-aside are used. There are three primary approaches. Commonly, the funds will be provided directly to State or area agencies on aging for the operation of programs. Another approach is to distribute the funds by formula to local service delivery areas, with the requirement that the funds be used to provide employment and training services to economically disadvantaged older individuals. The third common approach is to provide the funds to Senior Community Service Employment Program (SCSEP) sponsors, who operate similar programs under Title V of the Older Americans Act. Coordination between SCSEP and JTPA is an important new development, occasioned by the three percent set-aside.

Incentive Grants and Technical Assistance. Six percent of available Title II-A funds is set aside to provide incentive awards, including incentives for serving hard-to-serve individuals, for programs exceeding the Secretary's performance standards and for providing technical assistance to service delivery areas that do not qualify for incentive grants. The Department has only limited knowledge about how these funds are being used, as the first full program year of operations has not yet concluded. Specific National data on how these funds are being spent is not collected.

JOB TRAINING PARTNERSHIP ACT MONITORING

Question: In September 1984, GAO issued a report entitled, "Strong Internal Controls at Service Delivery Level Will Help Prevent CETA-Type Fraud and Abuse In Job Training Partnership Act Programs." GAO found that fraud and abuse problems under CETA were due largely to weak internal controls primarily in the accounting and reporting functions at the subgrantee level. GAO concluded that Labor's future monitoring of JTPA should verify that State procedures for reviewing the adequacy of subgrantee internal controls have been fully implemented and are working effectively. Has Labor's monitoring of JTPA included the steps cited by GAO? If so, what can Labor say about the adequacy of State reviews of subgrantee internal controls?

Answer: ETA has established yearly compliance reviews of each State's financial management system, including an examination of the State's plans and progress toward monitoring the subgrantee internal controls. It is not the intent of these reviews to examine the SDA internal controls but only the State's monitoring of SDA activity.

Our latest information indicates that 49 States/Territories have been reviewed. In general, much progress has been made and ETA is continuing to emphasize in its compliance reviews adequately documented procedures in the following areas - accounting, cost classification, allowable costs, cost limitations, waivers, matching and monitoring.

Although JTPA does not specifically require documented procedures (except in the area of allowable costs), a basic internal control concept is documentation. In addition, each State is required to "establish such fiscal controls....as may be necessary to assure proper disbursal of....Federal funds." Good managerial and accounting practices dictate that those controls be documented and used.

The JTPA operating concept is to allow the States maximum flexibility in oversight of the SDAs. Most States, however, have been aggressive in implementing their monitoring responsibilities and they are eager to avoid the problems encountered under CETA.

Question: Have subgrantee controls under JTPA improved over what they were under CETA?

Answer: Because of the relative newness of JTPA, and, therefore, the relatively few SDA internal control systems examined, a valid comparison of JTPA and CETA is not possible.

Question: How does the incidence of fraud and abuse under JTPA and CETA compare?

Answer: The JTPA is a relatively new program and sufficient information is not available to make a comparison at this time that would have validity. The Department has recently issued procedures to the States, in addition to those issued to our regional offices last year, for reporting known or suspected incidents of fraud, gross mismanagement, malfeasance, and misapplication of funds in ETA funded programs. As we receive such information from a variety of sources over a suitable time period, and investigate allegations, we will be better able to make the comparison requested. However, we are optimistic that our early emphasis on the implementation of management systems to minimize the possibility of fraud or abuse will result in considerably fewer problems under JTPA than under CETA.

QUESTIONS SUBMITTED BY SENATOR WILLIAM PROXMIRE

APPRENTICESHIP PROGRAMS

Question: Last year I mentioned an $800,000 evaluation of the apprenticeship system with a major emphasis on the Federal/State administrative structure. I was curious as to how the study would be used and was told it was scheduled to be completed in October and that only then would you be able to respond to my question. Well, October has come and gone, $800,000 of the taxpayer's money has been spent, and I'd like you to tell us how you plan to use the study.

Answer: The study, "Evaluation of the Apprenticeship System," was designed to determine the effectiveness of the joint Federal/State role in apprenticeship programs and to identify specific problems of duplication and other areas that impede effective and efficient operation of apprenticeship programs. Secondary issues focused on: principal trades and occupations currently receiving the most attention from the apprenticeship training into occupations not traditionally considered apprenticeable; and types of emerging occupations and industries that appear to be suitable for apprenticeship initiatives. This study ran for 18 months at a total cost of $437,432. From it, we expect to be able to identify ways to increase the efficiency and effectiveness of apprenticeship programs.

Question: You are requesting $11,145,000 for the Bureau of Apprenticeship and Training in Fiscal Year 1986, a cut of $1.4 million and 36 positions from the current budget. According to the latest information, there were 324,000 registered apprentices in 1979, 253,000 apprentices at the beginning of 1984, and 233,000 apprentices at the end of the year, despite the economic upturn. Furthermore you told us last year, in response to a record question, that an estimated 300 of the 738 occupations recognized by the Bureau currently have no apprentices in training.

It sounds like this program, is dying on the vine. What's happening here?

Answer: The decrease in the number of registered apprentices and the sizeable number of occupations with no apprentices is due to the purging of statistical data files and the continuing effects of past economic conditions rather than to a reduced level of the Bureau Apprenticeship Training's staff. Where training programs average over three years in length, there is some delay before improved economic conditions are reflected in participant increases. With the success of the Administration's economic recovery program, the number of registered apprentices is expected to begin a steady and continued increase in Fiscal Year (FY) 1986. For the first quarter of FY 1985, there was a net increase of about 5,000 in the number of apprentices from the beginning to the end of the quarter. It is believed that through new efforts, such as improved management, better staff training, introduction of automated data processing, more effective promotional techniques and increased State agency involvement, there will be an increase in the number of persons being trained to be craftworkers through a revitalized apprenticeship program.

EQUIPMENT

Question: Last year's budget appendix indicated that you planned to spend $1,616,000 on equipment in fiscal year 1984, a sizeable increase over your original estimate of $108,000. You explained in a response for the record that it was decided after your initial estimate was made to enhance your Distributed Computer Network. This year's budget appendix indicates you actually spent $5,110,000 equipment in fiscal year 1984. Can you tell us why?

Answer: ADP equipment expenditures totalled $2,634,300 of which $1,208,250 related to the Distributed Computer Network expansion consisting of 3 fully configured mini computers. The remainder, $1,426,050, was expended for: terminals and printers for BAT Field and Regional Offices; a mini computer, terminals, and word processors to support implementation of UI Quality Control; micro processors and terminals for the Alien Certification program; and terminals, modems, and other peripherals to replace obsolete equipment in the national and regional offices. These expenditures were necessary to accomodate a growing number of automation users, and maintain a minimum level of computing capability to meet user needs.

In anticipation of the forthcoming relocation of the Employment and Training Administration (ETA) national office's staff to the Frances Perkins Building, $1,909,000 was expended to purchase modular furniture and carpeting. Also, to comply with the new space requirement of an average of 135 square feet per person, $422,000 was expended for regional space renovation costs. The balance, $145,000, was used for purchases of miscellaneous equipment necessary for the normal operation of ETA facilities. The one-time moving and renovation costs will not only enable ETA to comply with the 135 square feet per employee mandate but will result in GSA rental savings in future years.

EQUIPMENT REPROGRAMMING

Question: Am I correct in assuming that this is the kind of adjustment that would be reported to the Committee in the future in accordance with the reprogramming language contained in the Committee report?

Answer: Yes, you are correct in assuming that this is the kind of adjustment that would be reported to the Committee. The Committee desires to be notified of reprogramming actions which involve funds in excess of ten percent or $250,000 whichever is less, between programs, activities or elements.

REPROGRAMMING

Question: On page PA-10 of your justifications you indicate that a reprogramming request is being prepared and will be submitted to the Committee pursuant to our report language on reprogramming. When will we receive that request?

Answer: We are unable, at this time, to set an exact date of submittal for the reprogramming request. The request will be submitted to the Committee as soon as the executive review process is finalized and completed.

UNFILLED POSITIONS

Question: Last year's justifications projected that you would have 268 unfilled positions by the end of fiscal year 1984. You ended up with 415 unfilled positions. Can you tell us why so many more positions were vacant than originally estimated?

Answer: The Employment and Training Administration (ETA) experienced an unusually high level of separation in 1984. This was largely due to the success of the HIRE ETA FIRST program that the Department put in place during ETA's reduction-in-force (RIF) action earlier in the year. This resulted in increasing and accelerating attrition during the year. After the RIF, this same increased rate of attrition continued. We had anticipated in the original 1984 submission a higher than usual end-of-year employment level. Not only did the on-board employment decrease at a faster rate, but earlier than anticipated.

IMPROVING ADMINISTRATION OF THE UNEMPLOYMENT INSURANCE PROGRAM

Question: Last Tuesday Congressman Stark introduced legislation intended to improve the administration of the Unemployment Insurance program at the State level by establishing a grant program for the purchase of computers and by authorizing an increase in the use of permanent part-time employees to handle a fluctuating workload.

Congressman Stark pointed out when he introduced the legislation that productivity among all States over the past five years had ranged from a weighted average of 19 to 40 hours per case and that within individual States the range was even greater--from 6 to 59 hours in one State. He also cited a GAO finding that computer improvements and better matching of staff to workload could save about $140 million a year in salary costs. What steps are you taking to improve the situation?

Answer: Certain productivity variances among the States are unavoidable, as they are the products of dissimilar economic and demographic conditions from State to State as well as substantial variation among UI program requirements reflected in State laws. To the extent that these factors affect the range of productivity among the States, the Federal government is not remiss, under current Federal law, in recognizing a differing unit cost structure from State to State. Other causes of productivity variances among States, however, can be ameliorated by Federal action.

In recent years the Department's interest in productivity improvement has led it to support State work measurement studies and use of the resulting productivity factors in the allocation of administrative grants resources among the States. In this allocation process, States with productivity levels below the median level for all States receive proportionately less resources than States with high productivity as measured by the work measurement studies. This approach has helped to narrow the range of costs from year to year.

When fully installed, the new UI Quality Control program will also provide data for every State on the level of program accuracy and areas in which the greatest inefficiencies occur. With this information, the States will then be able to initiate appropriate corrective actions to improve program accuracy and efficiency.

Improvements in data processing are being funded from a special amount set aside for automation, designed to improve productivity through increased automation, and distributed on the basis of proposals submitted by the States.

Taken together these initiatives provide adequate resources and incentives to improve UI productivity.

Beyond the question of funding, which is addressed by the subject legislative proposal, the Federal government has no effective influence upon the effectiveness of any States' part-time employee usage. Conditions are entirely internal and are a product of the State's law, its personnel regulations, the agency's abilities to recruit, retain and train part-time staff and, in some cases, a union bargaining agreement.

Question: Do you believe you need additional legislative authority to get the job done?

Answer: The Administration is consulting with States to develop legislation to devolve management of all UI administrative resources to the States. Absent such legislation, however, the Department does not need or want additional Federal legislation in this area.

SUBCOMMITTEE RECESS

Senator WEICKER. The subcommittee will stand in recess until tomorrow morning at 9 o'clock when we will reconvene in this room to hear testimony on the fiscal year 1986 administration's budget request for the Labor-Management Services, Pension Benefit Guaranty Corporation, Employment Standards Administration, and Bureau of Labor Statistics.

[Whereupon, at 10:37 a.m., Tuesday, February 26, the subcommittee was recessed, to reconvene at 9 a.m., Wednesday, February 27.]

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1986

WEDNESDAY, FEBRUARY 27, 1985

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:02 a.m., in room SD–116, Dirksen Senate Office Building, Hon. Lowell Weicker, Jr. (chairman) presiding.

Present: Senators Weicker, Proxmire, Chiles, and Burdick.

DEPARTMENT OF LABOR

LABOR-MANAGEMENT SERVICES

STATEMENT OF RONALD J. ST. CYR, DEPUTY UNDER SECRETARY FOR LABOR-MANAGEMENT RELATIONS AND COOPERATIVE PROGRAMS, ACTING ASSISTANT SECRETARY FOR LABOR-MANAGEMENT STANDARDS

ACCOMPANIED BY:

MARIO A. LAURO, JR., ACTING DEPUTY ASSISTANT SECRETARY FOR LABOR-MANAGEMENT STANDARDS

ALAN D. LEBOWITZ, ACTING ADMINISTRATOR FOR THE OFFICE OF PENSION AND WELFARE BENEFIT PROGRAMS

INTRODUCTION OF ASSOCIATES

Senator WEICKER. This morning we will be hearing from Labor-Management Services, Pension Benefit Guaranty Corporation, Employment Standards Administration, and the Bureau of Labor Statistics.

Our first witness will be Mr. Ronald St. Cyr, Deputy Under Secretary for Labor-Management Relations. Mr. St. Cyr, will you introduce your colleagues and proceed as you wish.

Mr. ST. CYR. First of all, good morning. It is a pleasure to be here. On my left is my deputy, Mr. Mario Lauro, and on my right is Mr. Alan Lebowitz, the Acting Administrator of the Pension Welfare Benefit Program.

STATEMENT OF RONALD J. ST. CYR

My statement is rather brief. With your indulgence, I would like to read it, if I may.

I appreciate this opportunity to appear before you as the Acting Assistant Secretary for Labor-Management Standards and as a Deputy Under Secretary for the Bureau of Labor Management Relations and Cooperative Programs to present our modest budget request for fiscal year 1986.

The fiscal year 1986 request is for $56,002,000 and 1,040 positions. This is a net decrease of $2,877,000 and 15 positions from fiscal year 1985 levels, and that change includes approximately $3.8 million for built-in increases associated with personnel and nonpersonnel services. These increases are offset by a decrease of about $6.6 million and 15 positions. The decrease will be achieved through several management initiative reductions, including reductions in agency administrative overhead of $602,000; reduction in administrative support services of $1,341,000; savings achieved through a program freeze of $885,000; freezing GSA standard level user charges at the 1985 level, $2,341,000 and savings achieved through a proposed 5-percent pay reduction of $1,460,000.

The appropriations for Labor-Management Services covers labor-management standards enforcement, pension welfare benefit programs and a variety of employee protection and labor-management relations activities.

Overall strategy for 1986 will continue to support efforts to promote cooperative labor management and to achieve effective enforcement programs.

The Office of Labor-Management Standards budget request includes a net decrease of 15 positions and $1,527,000. At this level, we will continue to utilize these resources to strengthen enforcement, the Labor Management Reporting and Disclosure Act and other statutes by increasing efforts to investigate embezzlements and other serious violations.

In addition, this program will continue to refine two special audit programs, the Compliance Audit Program and the International Compliance Audit Program, in order to efficiently monitor the financial operations of unions.

In the area of Labor-Management Relations and Cooperative Programs, our 1986 request includes a net decrease of $138,000 to $4,681,000, which will allow us to continue program activities at approximate 1985 levels. These resources will be utilized to encourage and promote labor-management cooperation through information sharing, development of education and training materials, conferences and symposia and a contract research program; to provide protections to employees affected by grants under the Urban Mass Transportation Act and other Federal assistance programs; and to assist the Secretary, Under Secretary and Deputy Under Secretary in carrying out their responsibilities in the labor-management relations area.

In the area of ERISA, our 1986 budget proposal includes a net decrease of $1,212,000 from $29,553,000 to $28,341,000. With the chairman's permission, I will ask the Acting Administrator of the Office of Pension and Welfare Benefits Program, Mr. Alan Lebowitz, to provide a statement, after which my colleagues and I will be glad to respond to any questions you may have. Thank you, Mr. Chairman. That concludes my statement.

STATEMENT OF ALAN D. LEBOWITZ

Mr. LEBOWITZ. Thank you, Mr. Chairman. I appear before you today as Acting Administrator of the Office of Pension and Welfare Benefit Programs to present the fiscal year 1986 budget. The 1986 budget is $28,341,000 and 504 positions. From fiscal year 1985, the net decrease of $1,212,000 represents adjustments in both personnel and nonpersonnel areas.

During 1986, the Pension Program will continue to concentrate its primary efforts on the administration and enforcement of the fiduciary and reporting of disclosure provisions of ERISA. Our goal is to ensure a uniform nationwide standard for the conduct of pension and welfare benefit programs and to ensure the security of benefits for 200 million plan participants.

More specifically, from 1985, 73 additional fiduciary investigations and plan reviews will be completed. Two additional criminal investigations will be conducted; 48 additional exemptions applications will be processed; 5,000 additional inquiries will be answered; and assets restored will increase by $2 million. These changes are attributable to increased productivity of our existing staff. Activities related to regulations and interpretations, archival functions and disclosure of documents, and assistance to the public will essentially remain at 1985 levels.

In addition, as planned followup from fiscal year 1985, we will continue our field realignment activities. During the current year, in order to streamline enforcement operations by decreasing layers of review, we eliminated our regional office structure. As evaluations of this effort are completed, further initiatives may include the closing of smaller field offices. With regard to the national office, the initial stage of restructuring has been completed. Future plans include refinement of that first step.

Finally, activities over the past year also included establishment of a working group, composed of representatives from the Office of the Solicitor, the Office of the Inspector General and Pension Program, charged with reviewing ERISA enforcement activities; the National Pension Forum convened by the Secretary of Labor to assess the first 10 years of the Department's administration of ERISA, and composed of bipartisan representatives from Government, industry, and the public; and a pilot project to test the feasibility of electronic filing with approximately 1,000 plans submitting their annual reports directly to the Department in digital form.

Mr. Chairman, that concludes my statement. I will do my best to respond to any questions you may have. Thank you.

OIG REPORT ON COMPLIANCE AUDIT PROGRAM [CAP]

Senator WEICKER. Thank you. Last year, the Department's inspector general issued a report that was highly critical of the LMSA Compliance Audit Program and recommended the Compliance Audit Program, CAP program, be limited until there was a full evaluation conducted of the program concept. That inspector general's report was issued after the 1984 committee hearings under the Department of Labor appropriations.

Following the inspector general's report, Senator Proxmire suggested the Department of Labor follow the inspector general's lead and reallocate the Compliance Program positions to other more useful activities within the mandates of LMRDA and ERISA. I also stated that I expect the Department to address the recommendations contained in the inspector general's report, and also suggested the Department of Labor seriously consider shifting the positions currently devoted to CAP audits to more productive uses within the mandate of LMRDA and the Director of the Department be prepared to discuss the steps and implement the inspector general's report at these hearings.

At this time, I would like the Department of Labor to state what it has done on this matter with respect to the reallocation of approximately 93 positions that are devoted to the Compliance Audit Program audits.

PURPOSE OF COMPLIANCE AUDIT PROGRAM

Mr. ST. CYR. Well, respectfully, Mr. Chairman, we disagree with the inspector general's report. If you look at the compliance audit procedure strictly as a targeting device in order to uncover embezzlements, I suppose you could put some credence to the inspector general's report. However, that isn't the case.

In the area of embezzlements, we do get fallout cases. Approximately 12 percent of the CAP's that we conduct result in embezzlement investigations. Of the 4,000 and some odd CAP cases that we have done since 1981, we found over 7,000 violations of one kind or another.

Now, these violations are not necessarily of a criminal nature, bonding and different kinds of deficiencies, filing deficiencies and resulting in various kinds of actions we have taken to work with the unions in order to help them be in compliance with the LMRDA. Many are reporting requirements.

So our intention with CAP isn't merely to discover embezzlements. Hopefully, there would be no embezzlements. That is the end we certainly want to achieve.

We feel the CAP serves more than just to discover embezzlements. It certainly goes toward helping the unions come into compliance, and we have increased our technical assistance. At the same time, in fact last month, we had a meeting in Cleveland or Chicago?

Mr. LAURO. Columbus.

Mr. ST. CYR. Of 600 labor officials to help them understand better how to stay in compliance with LMRDA. We see our approach as being a broad, far-sweeping one. CAP is only one part of it.

As far as we are concerned, when CAP first went into effect, and remember, please, it is still a very young program; the compliance audit procedures have only been around for 4 or 5 years; we expected that there would be some bugs, there would be some sifting out and discovering of problem areas and some corrections made in the CAP. In fact, we have a committee put together where we have invited the inspector general to sit with us and help us determine what deficiencies, if any, there are in the CAP Program and to make corrections. In fact, we have made a great many adjustments to the CAP. Mr. Lauro has been working on that. Perhaps he could comment further.

COMPLIANCE AUDIT PROGRAM MODIFICATIONS

Mr. LAURO. I would like to just address a couple of points. We have done approximately 4,700 CAP's since the beginning of the program. We have had a fallout rate of about 521, which is about 12½ percent. We have about 68 convictions to date totaling just under $1 million.

At the time that the Inspector General's Office started their inquiry, we had built into the CAP Program a series of reviews that were ongoing at that time. One was a questionnaire and, again, I emphasize we had this well underway by the time they started their report. We sent a detailed questionnaire to all of our staff people on the results of the CAP, and as a result of the questionnaire, we started to finetune the process—the schedules process—requiring more third-party verifications in the financial area. We set up and developed a very extensive embezzlement audit guide which runs about 100 pages and, again, finetuned the program and the approach, and we have developed and are continuing to develop extensive training for our supervisors and investigators in the program.

As Mr. St. Cyr indicated, our experience with the CAP has indicated in addition to the embezzlement cases that we have discovered; we have also uncovered over 7,000 civil violations that we feel are important to correct. I think one of the problems we find with the inspector general's report is that it seems to go to the conviction rate and doesn't really address the worth of the program in the other areas.

We did point this out. This program covers virtually every area of the LMRDA and is geared to the technical assistance aspects to inform the union officials of bonding requirements, deficiency requirements, and delinquency requirements. In fact, there is a question included that asks the union officials whether there is any evidence of consultant persuader activity and, I might add, we have had virtually no results from that question. But the worth of not only being able to broaden our ability to get to the universe—we have done 5,000—is to be able to get in there and talk to these people. There is an exit interview at the end where our investigators sit down and give out advice, any pamphlets, answer any questions on the requirements of the LMRDA and, we think, as we say, it is an important program.

We agree that it needs some finetuning in the embezzlement area, but we think we are well on the way toward taking those initiatives to strengthen it.

One last point that I would make. This replaced a program that we had where we were doing field audits and spending an average of 16 days in a labor organization. When you think in terms of 49,300 reporting organizations right now, we just have no way to cover that universe short of what we hope will be a good audit program.

The last point is we feel that CAP, like any audit program, IRS audit program on tax returns, FAA audit program with regard to airline pilots, has a deterrent factor built in, and as we broaden our ability to cover our jurisdiction and get into these unions that there are more benefits than drawbacks to the program.

ROLE OF THE INSPECTOR GENERAL

Senator WEICKER. First of all, what has been done to implement the inspector general's report? The way I look upon the inspector general, it is not up to you to tell him how to shape up. He is in there as an independent voice. I want to know what has been done to try to correct the deficiencies brought up by the inspector general. I don't care whether you agree with him or not. Too bad. That is what inspector generals are for. There is no debate on that score, not in my book. If we go in and say we disagree with the inspector general, then we might as well do away with the Office of the Inspector General, and I don't think I want to do that.

Mr. ST. CYR. I think our inspector general activity, Mr. Chairman, is a little different than the norm. In most branches of Government, the inspector general is the inspector general, and in the Labor Department, the inspector general is involved in program work. In fact, many of the employees who now work with the inspector general used to work in LMSA doing exactly what we are doing now.

So I am not sure that it is a completely unbiased report. I do have a great deal of regard for Mr. Hyland. I think to the extent he is trying to be objective, he is being as objective as he can. We have, I think, demonstrated at least to the Secretary that that report isn't one that we wholeheartedly agree with.

OIG INVOLVEMENT WITH CAP TARGETING APPROACH

I think we have admitted there are areas we need to improve on and to the extent that we have done that and addressing your more specific question, Mr. Weicker, we have formed a committee which asked the inspector general to come in and help us. It is one thing to be critical of a program. It is another thing to lend assistance to help us correct the deficiencies. So the committee that we put together, which has been—I don't know how many meetings you have had—but the inspector general is involved and is giving us directions on how we can overcome some of the deficiencies.

Mr. LAURO. One point I can make is one of the goals we wanted to achieve. They had some questions about our targeting so we sat down and said, all right, can you help us in the targeting area because we don't have sophisticated computers to do the targeting? They said, yes, we have got some people that are targeting experts. So we went down that road, provided the office and the staff with all the material that they asked for, and I spent a considerable amount of time making sure that they had all the information they needed.

They are currently working on some new targeting approaches, but it has not been forthcoming as of yet. They have had other projects that they are working on. But this is one area that we asked them to address with us.

Senator WEICKER. Is the inspector general scheduled to appear Friday?

Mr. SOURWINE. Right.

PROSECUTION OF CASES REJECTED BY U.S. ATTORNEY

Senator WEICKER. I understand one problem confronted by your enforcement staff is the U.S. attorneys often refuse to prosecute cases involving less than $10,000 to $20,000. Of course, once the word goes out, embezzlers know what they can get away with. Has the Department ever considered asking the Justice Department for delegation of the authority to prosecute cases that the U.S. attorneys refuse to handle?

Mr. LAURO. I think I can address that. I don't believe, I think, we have explored with the Solicitor that possibility. What we have done to date, we are underway with a study, and I talked to Mr. Sourwine about this and am prepared to give him the result of the study, we are looking at the declinations. We had approximately 350 declinations in the past 2 years; 128 were so called de minimis.

As I indicated to your staff, one case up in New York was a $65,000 embezzlement the U.S. attorney's office considered de minimis. I think that is the product of just the workload.

So we are currently at the far end of a study to determine where we are having problems with the U.S. attorneys' offices, and then we plan to address that with the Department of Labor's Office of the Solicitor as to what avenues we have open to us.

We clearly recognize this as a problem. We know that we can work embezzlements, but there is no point in working cases and having them declined. It is not in all areas, but there are some particular areas, particularly up in New York and in the Miami area where they seem to have a considerable number of cases of larger dollar volume. So I think we have that underway.

INTERNATIONAL COMPLIANCE AUDIT PROGRAM [ICAP]

Senator WEICKER. You are proposing to more than double international compliance audits from 14 in fiscal year 1985 to 29 in fiscal year 1986. What is the rationale for expanding audit activity in this area, and what are your specific plans?

Mr. LAURO. I think the program, coupled with increasing the——

Senator WEICKER [interposing]. You are going down, as I gather, in domestic; is that correct?

Mr. LAURO. Going down?

Senator WEICKER. The audits of domestic unions will decrease somewhat.

Mr. LAURO. It will decrease a little. We want to do two things using the same enforcement strategy we do with the internationals. We have underway a program, we want to develop more liaison with the internationals in addition to doing the audits. This, we hope, will allow us to develop with them more rapport so that some of what we are trying to do in the technical assistance area can filter down to the local areas. We think the ICAP program is an area that will help us do that.

We have asked our staff this year to increase compliance assistance, and we think we will have some positive results. So the ICAP program is geared toward, in addition to doing our audit with the program, also geared toward developing more liaison with them so that we can get their goodwill toward assisting us in the compliance assistance area, which as Mr. St. Cyr mentioned earlier, we are having some very, very good results with the interest of the labor organizations anound the country.

REDUCTION IN POSITIONS

Senator WEICKER. Your budget proposes to cut 15 noninvestigatory positions from labor-management standards activities in fiscal 1986 as a part of the across-the-board reduction of administrative costs. Why is there no corresponding reduction in administrative staff associated with the other two activities within the Labor-Management Services appropriation, namely, the Bureau of Labor-Management Relations and Cooperative Programs and, two, the Office of Pension and Welfare Benefits Program?

Mr. ST. CYR. As you know, with the splitup of LMSA, most of the administrative positions went to a new National Capital Center within the Department of Labor so that the administrative matters, the extent to which the administrative matters were being handled within LMSA were kind of centralized.

Each one of the three separate LMS organizations then took a look at their own administrative needs. We didn't want to take any cuts in the areas that were critical to us. Therefore, we made a great many innovative management changes in terms of reorganizing and restructuring our work so that we could free up the 15 positions in OLMS.

The same thing just wasn't possible in the other organizations. We can do this without any drastic effect on the effectiveness of our program.

Senator WEICKER. I have further questions which I am going to submit for the record. Senator Proxmire?

IMPROVEMENT OF ERISA ENFORCEMENT ACTIVITIES

Senator PROXMIRE. Thank you, Mr. Chairman. Mr. Lebowitz, in your prepared testimony, you referred to the establishment of a working group to review ERISA enforcement activities. The last semiannual inspector general's report placed particular emphasis on the working group's proposal that you improve the effectiveness of your limited resources by making better use of independent public accountants.

More specifically, the working group has recommended that these accountants be required to notify you of irregularities discovered during a review involving plan funds and of other reportable events. To ensure that this requirement is effective, the working group has proposed sanctions against accountants who file inaccurate or otherwise misleading financial statements and management reports. Apparently similar requirements are currently a part of the SEC's regulations.

Do you plan to implement this recommendation and, if so, what is your timetable?

Mr. LEBOWITZ. We have begun to take a close look at that recommendation to determine whether or not it would be feasible to do the same thing at the Department with respect to ERISA as is done at the SEC, and maybe some other agencies—the IRS, for example, has procedures for debarment of attorneys and accountants who violate their standards of behavior.

At this point, I don't think I can give you a definitive answer about whether we will find it is feasible or not. We are going to take a very close look at it and work closely with the inspector general——

Senator PROXMIRE [interposing]. When do you think you will decide whether or not you are going to implement this recommendation?

Mr. LEBOWITZ. I don't know that I could give you a precise date. I think it would be some time within the next several months when we will have a better idea of whether we can then go forward with the appropriate regulatory and procedural changes that would be needed.

Senator PROXMIRE. Would you say May or June?

Mr. LEBOWITZ. Yes, sir.

GAO REPORT ON QUALITY OF PENSION PLAN DATA

Senator PROXMIRE. In September, the General Accounting Office issued a report that is critical of the quality of pension plan participation data. More specifically, GAO found that 76 of the 143 pension plans in its study—53 percent of the plans—lacked complete data on active participants.

According to the General Accounting Office, the larger the plan, the greater the problem. As an example, GAO pointed out when missing birthdays were made available for 12,000 participants in one plan, its actuarial liability went up by $46 million, which meant the plan was underfunded by this amount.

GAO recommended that the Department implement procedures to ensure that pension plan trustees maintain complete and accurate data to aid the actuary in making a reliable valuation.

GAO also recommended that the Department expand its enforcement programs to include the review of actuarial variation reports to monitor the completeness of participant data.

I know the Department disagrees with these recommendations, but how else can you deal with the inadequacies the GAO found in the current data being reported?

Mr. LEBOWITZ. I believe the previous question may have some relationship to the answer on this issue. Accountants, as you know, are required—the plan in reporting to the Department is required—to file certified accountants' statements. My understanding is in undertaking that kind of review, a CPA has to determine that the actuarial evaluation that accompanies the plan is a reasonable one and based on adequate information.

We believe, and the Department responded to GAO by pointing that out and in effect suggesting that those certified public accountants who provide services to employee benefit plans have a responsibility in that area to determine the actuarial soundness of the evaluation.

Senator PROXMIRE. Won't you follow this up? Let me just cite an example.

GAO pointed out that when missing birthdays were made available for 12,000 participants in one plan, its actuarial liability went up by $46 million. That means the plan was underfunded by that amount.

You are a professional in this area and I certainly am not, but that seems like a shocking disparity.

Mr. LEBOWITZ. I am not an actuary. It is hard for me to respond very specifically with regard to that example. I would have to say in all candor that much about the actuarial profession mystifies me, and I don't really know what the particular reason for that result would be.

We can certainly provide a more definitive answer later on.

OBSERVATION ON ACCOUNTING STANDARDS

Senator PROXMIRE. Let me ask Mr. van der Voort to follow up with an observation.

Mr. VAN DER VOORT. I was going to say, if you do feel the accountants are the key, then it makes it all the more important, it seems to me, that you do set high standards and enforce them.

Mr. LEBOWITZ. As I said, the answer to one problem may well lie with the answer to the question of the degree to which accountants should be responsible for reporting deviations to the Department. There are, of course, standards that the accounting profession has established itself with regard to audits for the benefit plans which do place the responsibility, as I understand it, on the accountant to assure the appropriateness of the actuarial evaluation.

Mr. VAN DER VOORT. As the Senator pointed out, without the standards, for example, that the Securities and Exchange Commission set, it is difficult to police that responsibility.

Mr. LEBOWITZ. We are going to, as I said, be taking a closer look at that. In conjunction with that, we will be talking to representatives of the accounting profession and see perhaps if a combination of efforts on our part and efforts at the accounting profession level can be——

Senator **Proxmire** [interposing]. Will you let us know what comes of that? Write the chairman and send me a copy.

Mr. **Lebowitz**. Yes.

PREPARED STATEMENTS AND QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator **Proxmire**. Thank you, Mr. Chairman. I will put the rest of my questions in the record. Thank you very much, gentlemen.

Senator **Weicker**. I would like to submit additional questions to be proposed to Under Secretary Ford B. Ford, questions submitted by Senator McClure, along with your statements to be made a part of the record.

[The information follows:]

Statement of Ronald J. St. Cyr

Mr. Chairman and members of the subcommittee, I appreciate this opportunity to appear before you as Acting Assistant Secretary for Labor-Management Standards and Deputy Under Secretary for the Bureau of Labor-Management Relations and Cooperative Programs to present the budget request for fiscal Year 1986.

The fiscal year 1986 request for Labor-Management Services is $56,002,000 and 1,040 positions. From FY 1985, this a net decrease of $2,877,000 and 15 positions. The net change includes approximately $3.8 million for built-in increases associated with personnel and nonpersonnel services. These increases are offset by a decrease of about $6.6 million and 15 positions. The decrease will be achieved through several management initiative reductions, including the government-wide reductions in administrative services and costs of overhead, $602,000; reductions in Departmental administrative support services of $1,341,000; savings of $885,000 achieved through the decision to freeze programs at their 1985 dollar levels; freezing GSA standard level user charges at the 1985 level, $2,341,000; and savings achieved through a proposed five percent Federal pay reduction of $1,460,000.

LMS is also submitting a FY 1985 rescission proposal of $1,678,000 pursuant to Section 2901 of the Deficit Reduction Act of 1984 (P.L. 98-369). This rescission is proposed to achieve savings in the areas of travel and transportation, printing and publications and consultant services.

The appropriation for Labor-Management Services covers labor-management standards enforcement, pension and welfare benefit programs, and a variety of employee protection and labor-management relations activities. Overall strategies for FY 1986 will continue to support efforts to promote cooperative labor-management relations and to achieve effective enforcement programs.

The Office of Labor-Management Standards budget request includes a net decrease of 15 positions and $1,527,000. We will utilize these resources to strengthen enforcement of the Labor-Management Reporting and Disclosure Act and other statutes by increasing efforts to investigate embezzlements and other serious violations. In addition, this program will continue to refine two special audit programs, the Compliance Audit Program and the International Compliance Audit Program, in order to efficiently monitor the financial operations of unions.

For the Bureau of Labor-Management Relations and Cooperative Programs, our 1986 request includes a net decrease of $138,000 to $4,681,0000 which would allow us to continue program activities at approximate 1985 levels. These resources will be utilized to encourage and promote labor-management cooperation through information sharing, development of education and training materials, conferences and symposia, and a contract research program; to provide protections to employees affected by grants under the Urban Mass Transportation Act and other Federal assistance programs; and to assist the Secretary, Under Secretary, and Deputy Under Secretary in carrying out their responsibilities in the labor-management relations area

In the area of ERISA, our 1986 budget proposal includes a net decrease of $1,212,000 from $29,553,000 to $28,341,000. With the Chairman's permission, I will ask the Acting Administrator of the Office of Pension and Welfare Benefit Programs, Mr. Alan Lebowitz, to provide a statement, after which my colleagues and I will be glad to respond to any questions you may have. Thank you, Mr. Chairman, that concludes my statement.

STATEMENT OF ALAN D. LEBOWITZ

Mr. Chairman and members of the subcommittee, I appear before you as Acting Administrator of the Office of Pension and Welfare Benefit Programs to present the fiscal year 1986 budget.

The 1986 budget is $28,341,000 and 504 positions. From FY 1985, the net decrease of $1,212,000 represents adjustments in both personnel and non-personnel areas.

During 1986, the Pension program will continue to concentrate its primary efforts on the administration and enforcement of the fiduciary and reporting and disclosure provisions of ERISA. Our goal is to ensure a uniform nationwide standard for the conduct of pension and welfare benefit programs and ensure the security of benefits for 200 million plan participants.

More specifically, from 1985, 73 additional fiduciary investigations and plan reviews will be completed; 2 additional criminal investigations will be conducted; 48 additional exemption applications will be processed; 4,000 additional inquiries will be answered; and assets restored will increase by $2 million. These changes are attributable to increased productivity of existing staff. Activities related to regulations and interpretations, archival functions and disclosure of documents, and assistance to the public will essentially remain at 1985 levels.

In addition, as planned follow-up from FY 1985, we will continue field realignment activities. During the current year, in order to streamline enforcement operations by decreasing layers of review, we eliminated our regional office structure. As evaluations of this effort are completed, further initiatives may include the closing of smaller field offices. With regard to the national office, the initial phase of restructuring has been completed. Future plans include refinements of that first step.

Finally, activities over the past year also included establishment of a working group, composed of representatives from the Office of the Solicitor, the Office of the Inspector General and the Pension program, charged with reviewing ERISA enforcement activities; the National Pension Forum, convened by the Secretary of Labor to assess the first ten years of the Department's administration of ERISA, and composed of bipartisan representatives from government, industry and the public; and a pilot project to test the feasibility of electronic filing with approximately 1,000 plans submitting their annual reports directly to DOL in digital form.

Mr. Chairman, that concludes my statement, I am prepared to respond to any questions you may have.

QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

COMPLIANCE AUDIT PROGRAM

Question: How many positions are included in the Fiscal 1986 budget, compared to 1985, for Compliance Audit Program enforcement activities?

Answer: OLMS has budgeted a total of 195 positions for Compliance Audit Program activities in fiscal 1986, in comparison to 109 positions for fiscal 1985. These totals include supervisory support, technical assistance, targeting, clerical support, and investigative training related to Compliance Audit Program activities.

In terms of field investigative positions allocated for Compliance Audit Program enforcement activities, OLMS included 54 positions for fiscal 1986, in comparison to 58 positions for fiscal 1985.

COMPLIANCE AUDIT PROGRAM ACCOMPLISHMENTS

Question: What results have been achieved to date, and what do you expect the Compliance Audit Program to accomplish in Fiscal 1986?

Answer: The CAP program emphasizes all aspects of enforcing the civil and criminal provisions of the LMRDA. Since the inception of CAP in FY 81 through the end of the first quarter of FY 85, 4,719 compliance audits have been conducted by OLMS. This represents approximately 9.6 percent of the 49,353 labor organizations currently subject to the reporting and disclosure requirements of the LMRDA.

As a result of the 4,719 compliance audits that have been completed since the inception of CAP in FY 81 through the end of the first quarter of FY 85, over 7,000 civil violations of the LMRDA have been uncovered. Included in these 7,000 civil violations, 1,280 (27.1 percent) unions were discovered to have inadequate bonding coverage, and 2,433 (51.6 percent) were cited as having filed deficient annual financial reports (LM-2 and LM-3) with OLMS.

Additionally, the 4,719 compliance audits conducted through the first quarter of FY 85 resulted in 569 fallout embezzlement cases for a fall-out rate of approximately 12 percent. Of these 569 embezzlement cases, 68 (approximately 12 percent) have resulted in 84 subjects being convicted of embezzling a total of $878,824 of union funds. Restitution of $408,694 was achieved and an additional $64,060 in court ordered fines was imposed.

Ninety-six other embezzlement cases involving an estimated $634,787 of embezzled union funds are still being investigated and fifty-one other cases involving approximately $505,619 of embezzled union funds, have been referred to various U.S. Attorneys and remain pending.

The DOL OIG's Office of Organized Crime and Racketeering (OOCR) has requested and received CAP briefings from OLMS staff and has made overtures to establish procedures for OLMS investigators to conduct compliance audits in unions designated by OOCR and refer any possible criminal violations to OOCR for follow-up investigation.

CAP has two other important objectives in addition to uncovering LMRDA criminal and civil violations. These stated objectives are consistent with DOL responsibilities mandated by the LMRDA and are in line with a long standing DOL commitment to achieve voluntary compliance with the LMRDA through technical assistance efforts:

- To provide effective grass roots technical assistance directly to union officials.

- To create a visible enforcement presence in the labor community.

OLMS investigators routinely provide advice and publications covering the civil and criminal provisions of the LMRDA to union officials during the exit interview at the conclusion of each CAP case. We believe the technical assistance provided via the CAP program undoubtedly lessens the chance of future violations in addition to helping union officers perform their duties properly.

Although it is difficult to assess the CAP program's overall deterrent effect, we believe it is related proportionally to the number of audits conducted. The increased enforcement presence of OLMS throughout the labor movement should, like any audit program, generally result in improved compliance.

We believe CAP has met its stated objectives and will continue to be an effective enforcement tool in FY 86. The steps OLMS has taken to improve the program should result in (1) additional embezzlement fall-out cases with a corresponding increase in the number of embezzlement convictions, (2) the correction of numerous LMRDA civil violations (bonding, deficient reports, etc.) primarily through voluntary compliance by the unions involved, and (3) increased levels of compliance with the civil and criminal provisions of the LMRDA in the future, resulting from a strong emphasis on technical assistance and liaison with the estimated 1,965 labor organizations slated for a compliance audit.

INTERNATIONAL UNION COMPLIANCE AUDITS

Question: You are proposing to more than double international compliance audits from 14 in Fiscal 1985 to 29 in Fiscal 1986. What additional staff resources will be assigned to international union compliance audit acitivities?

Answer: Seventeen additional staff years will be assigned to International Union Compliance Audit activities in FY 86. This is up from sixteen staff years projected for FY 85. Hence a total of thirty-three staff years in the National and Area Offices are proposed for such activity.

COOPERATIVE LABOR-MANAGEMENT PROGRAM REDUCTIONS

Question: The Bureau of Labor-Management and Cooperative Programs has grown from 59 positions in Fiscal 1984 to 69 positions in 1985. In a time of budget restraint, why can't this office share in the staff cutbacks being faced by many other Labor Department agencies?

Answer: The Bureau of Labor-Management Relations and Cooperative Programs has shared in the funding cutbacks for 1986. Since we are currently at our ceiling, our reductions represent a carefully considered judgement of priority objectives, i.e., dollars vs. positions. As part of the Administration's overall efforts to reduce costs, the Bureau proposed a net program decrease of $419,000.

Reductions will primarily be focused on reducing the research program planned for 1986. Consequently the research program is returned to the 1984 level of $250,000. Due to the reductions in the Bureau's printing budget, the publication effort will be reevaluated, priorities adjusted, and more cost effective printing methods will be reviewed. It should be noted that the Bureau's position growth reflects a transfer of 7 positions in 1985 from the EDMS function as a result of the dissolution of LMSA.

The role the Bureau is playing in the area of cooperative labor-management relations is in conformance with the recommendation of three Presidential panels. Specifically, the White House Conference on Productivity, the National Productivity Advisory Committee, and the President's Commission on Industrial Competitiveness have individually and collectively validated the elevation of labor-management cooperation to a high priority issue for the Department and have supported the need for a more prominent Federal role in encouraging greater cooperation between labor and management. Each of the panels has found that labor-management cooperative efforts are beneficial and in the public interest, and that the Federal Government has a legitimate interest in the furtherance of these joint efforts. These panels have stated that the Government, as a catalyst, should provide information in a variety of ways -- case studies, research, symposia and conferences -- in order to provide practitioners from labor and management with useful information that will encourage their involvement. The National Productivity Advisory Committee recommended that "the Department of labor ... should continue to provide information and research services to help cooperative committees." It further recognized the Department of Labor for the role the Department has played in advancing cooperation and acknowledged that the spirit of the Committee's recommendations already were being carried out by the Department in the activities of the Bureau. In 1986, the Bureau will carefully construct its activities to assure continuing conformance with these recommendations by bringing together leaders from labor, management, government, academia and third-party neutrals to discuss issues related to labor-management cooperation and employee involvement programs.

COOPERATIVE LABOR-MANAGEMENT INTERNATIONAL ACTIVITIES

Question: Your budget justification indicates that staff of this office participate in a variety of international activities, specifically mentioning a conference in Paris, France. Doesn't this activity duplicate functions of the Bureau of International Labor Affairs?

Answer: No. Our international activities are not self-generated, but are undertaken usually at the request of the Bureau of International Labor Affairs (ILAB) whenever technical expertise in the labor relations area is considered necessary. Similar requests are made by ILAB of other Departmental agencies. Our activities fall into the following categories:

A. International Labor Organization (ILO)

Our role encompasses the preparation of responses to ILO questionnaires on issues or developments in the labor relations area; the drafting of position papers on issues coming before the organization; and occasional attendance as government representatives at annual ILO conferences and at meetings of ILO industry committees. In each instance, the activities are undertaken at ILAB's request.

B. Organization for Economic Cooperation and Development (OECD)

Our OECD activities are related to its Working Party on Industrial Relations, a body formed in 1970 to increase the organization's work in the field of industrial relations. The Working Party's meetings in recent years have been infrequent due to that Organiztion's budgetary situation. The January 1984 meeting in Paris to which you refer was that group's first meeting since July 1981. The travel and per diem expenses of the U.S. delegate to the Working Party have been assumed by the State Department. As with ILO affairs, our involvement in OECD activities has been at the request of ILAB.

C. Department-to-Ministry Program (DTM)

Since the late 1970's, the Department has established continuing bilateral contacts with several labor ministries, some of which have expressed an interest in the labor relations area. We have participated in the DTM programs established with Israel, the United Kingdom, Japan, Brazil, and Jamaica. ILAB coordinates the involvement of DOL agencies in these programs.

D. Orientation Sessions

We conduct a number of orientation sessions each year for foreign visitors and Foreign Service Officers. These are generally undertaken at ILAB's request.

COOPERATIVE LABOR-MANAGEMENT
STAFF TIME SPENT ON INTERNATIONAL ACTIVITIES

Question: How much staff time and travel is spent on international activities?

Answer: In recent years, the Bureau of Labor-Management Relations and Cooperative Programs has averaged about 0.5 staff year on these international activities. During FY 1984, foreign travel was as follows:

January - Trip to Paris for 2-day meeting of OECD Working Party. Cost assumed by State Department.

March - Trip to Israel for March 5-8 Conference on Labor in Changing Industrial Societies. This conference, jointly sponsored by the Israeli Lbor Ministry, was part of our Department-to-Ministry program.

REDUCTION OF COOPERATIVE LABOR-MANAGEMENT STAFF

Question: What would be the impact of a 10 percent cut in the staff of this office?

Answer: The central thrust of the 1986 cooperative labor-management program is to develop and expand activities to foster a program which is national in scope and one which is recognized by the private sector as responsive to the goals of international competitiveness. The centerpiece of this effort is a conference and symposia program developed along with an outreach/technical assistance and publications effort. A 10% cut in staff for this office would seriously weaken an essential program which has already sustained funding reductions as part of the proposed Section 2901 rescission.

ADMINISTRATION OF PENSION LAW

Question: According to your budget document, the National Pension Forum released its final report early in Fiscal 1985, assessing the first ten years of the Employee Retirement Income Security Act. What recommendations did this bipartisan group make for improving the Labor Department's administration of pension legislation?

Answer: the National Pension Forum, in summary, recommended:

- Cabinet Council and OMB approval of the computerization of the ERISA information management system;
- that the Secretary of Labor extend to the pension program Schedule A hiring of lawyers at the investigative level;
- that the Department of Labor study the concept of a self-regulatory organization which might be involved in the prohibitied transaction process;
- that an Office of Pension Statistics be created to collect, analyze and report to Congress on data concerning employee benefit plans;
- that the Secretary of Labor take organizational steps to rename OPWBP the Pension and Benefits Commission; to designate the principal officer as the Commissioner with the rank of Assistant Secretary; and, to designate the Commission as a separate entity for budgetary purposes;
- that the Secretary of Labor devote resources to public outreach and assistance in an effort to protect beneficiaries, foster an attitude of voluntary compliance and assist the enforcement program;
- to ameliorate the problem of regulatory requirements, that the Secretary of Labor allocate resources and place priority on the expanded use of class exemptions under Section 408; that the Department re-evaluate information requirements; and, that the Executive Branch agencies recognize the unique problems of small businesses in

complying with reporting and disclosure requirements and, so far as permitted by law, make special provisions to ease the burden on small business.

LMRDA EMPLOYER AND CONSULTANT REPORTING REQUIREMENTS

Question: Last year the House Education and Labor Committee issued a report documenting the uneven enforcement of LMRDA, particularly with respect to a lack of resources devoted to the employer consultant reporting requirements of the LMRDA. What steps have you taken to redress the imbalance in carrying out the statutory requirements with respect to obligations on employers as well as labor organizations?

Answer: By the very nature of the Landrum-Griffin Act, more resources will always be expended for investigating union reports and finances than for investigating employer and consultant reports. Approximately 50,000 unions are required to file annual financial reports with the Department of Labor. These reports cover billions of dollars of union receipts and assets and are vital to union members to show how their funds are being spent and to promote union self-government. Reviewing these reports is also important for exposing embezzlement of union funds so that remedial action can be taken including seeking restitution of funds and removing unfit officers and employees from their positions in unions.

As compared to the 50,000 unions that are required by law to file annual financial reports, reports are required from employers and labor relations consultants only under certain conditions. Furthermore, the Department has no authority to investigate embezzlement of employer or consultant funds. Given these differences between union reporting and employer and consultant reporting, it is only logical that more resources be devoted to investigation and audits of unions.

However, in order to help ensure proper reporting under the provisions of the LMRDA by employers and consultants, OLMS has established a high level task force to complete an employer/consultant report cross-checking project, in which we have been comparing the filing dates and contents of employer reports (LM-10) and consultant reports (LM-20 and LM-21) from 1980 to date to identify delinquent and deficient reports. The objectives of this task force are to:

- Obtain proper compliance from all employers and labor relations consultants who are delinquent and/or deficient in filing of the reports required by the provisions of Title II of the LMRDA.
- Complete and publish an employer/consultant reporting register for use by the OLMS staff and the public.

- Prepare complete and uniform OLMS employer/consultant disclosure files for use in the National and Field offices.

- Develop an ongoing system of cross checking these reports to ensure future compliance.

Finally, when the Department's record of litigation in the area of employer and consultant reporting is examined, it is clear that enforcement has been increased rather than abandoned. The Department has instituted 15 civil actions since FY 81 to enforce the employer and consultant reporting requirements of the LMRDA. This record of 15 cases filed during four years is significant when compared with the total of only 22 cases that were filed during the previous 21 years since the LMRDA was enacted.

USE OF PENSION PLAN REPORTS

Question: Private sector pension plans are required to submit detailed financial reports to the Government showing assets, liabilities, receipts and disbursements. What use does the Department of Labor make of the annual pension plan financial reports to be filed?

Answer: At present, there are approximately 800,000 pension and welfare benefit plans required to file annual reports (Form 5500 series) each year. These plans cover approximately 66 million participants and control $920 billion in assets. The Department utilizes the information contained in the annual report in carrying out its enforcement, research and public disclosure responsibilities under ERISA.

The major use of the annual report by the Department is to identify plans which appear to be in violations of ERISA's fiduciary responsibility provisions. With over 800,000 pension plans, the Department can only audit a sample of the plans. For this reason, utilization of the annual report information and computer targeting programs to identify protential ERISA violations is a critical part of OPWBP's efforts to effectively carry out its enforcement responsibilities. By scrutinizing the annual reports through various computer programs and manual reviews keyed to combinations of information items on the forms, OPWBP can focus its enforcement efforts on those plans where potential violations appear to exist; for example, the Department might target plans with (1) excessive administrative expenses; (2) low rates of return on investments; (3) high concentration of investments in real estate; or (4) high concentration of investments in party-in-interest transactions. In addition to providing a basis for the Department's targeting programs, the annual report is a fundamental tool of investigators in investigations of plan operations and activities.

Annual reports also are reviewed by National Office staff in evaluating requests for exemptions from ERISA's prohibited transaction provision.

In addition, the annual report represents a major source of data concerning the universe of employee benefit plans. For this reason, an analysis of the annual report information is generally undertaken, by the Department or private-sector researchers, as part of most major research projects involving employee benefit plans.

Finally, because the annual report represents the only source of detailed information concerning the operation and management of an employee benefit plan, the annual report serves as an important disclosure tool for plan participants and beneficiaries. In this regard, the Department, pursuant to the statutory mandate in section 106 of ERISA, maintains a public disclosure room and makes annual reports available for inspection by plan participants and the general public. The Department also furnishes copies of reports upon request.

At present, the Department, in conjunction with its electronic filing project, is reviewing the annual report forms, and related regulations, in an effort to identify information that is currently required to be filed which could be eliminated or reduced, as well as information necessary to the Department's enforcement and research program which should be required to be reported. Since the annual report not only serves the OPWBP, any proposed form changes must be coordinated with the Internal Revenue Service and the Pension Benefit Guaranty Corporation.

RETIREMENT EQUITY ACT

Question: The Retirement Equity Act was passed in response to pension issues of particular concern to women. What information has the Department of Labor made available to plan participants and sponsors to help understand the recently enacted Retirement Equity Act of 1984?

Answer: Immediately after the Act was signed by the President in August 1984, a fact sheet, which describes briefly the Act's most significant provisions was developed and issued. In addition, OPWBP and the Women' Bureau are currently developing a more comprehensive publication on the Act, and it is expected to be published shortly.

EMPLOYEE WELFARE BENEFIT PLAN RESPONSIBILITY

Question: The Employee Retirement Income Security Act of 1974 covers not only employee pension plans, but also company provided employee welfare benefit plans such as health benefits, prepaid legal services and day care centers. What is the Department of Labor's reponsibility with regard to employee welfare benefit plans?

Answer: The Department of Labor's responsibilities with regard to welfare benefit plans are established in several areas under Title I of the statute. Administrators and fiduciaries of welfare benefit plans are subject to the reporting, disclosure and recordkeeping requirements of Part I of Title I, the fiduciary provisions of Part 5 of Title I, all of which are administered by the Department of Labor.

PENSION REGULATION

Question: How many fiduciary violation cases has the Department of Labor uncovered and how much assets have been recovered?

Answer: During fiscal year 1984 a total of 2,727 fiduciary investigation cases were closed. Of those, 1,669 involved violations, resulting in the recovery of $30.7 million in assets and reversal of $62.4 million in prohibited transactions.

QUESTIONS SUBMITTED BY SENATOR WILLIAM PROXMIRE

OFFICE OF LABOR-MANAGEMENT STANDARDS AUDIT WORKLOAD

Question: I note that you fell well short of your OLMS audit workload estimates in fiscal year 1984. Last year you estimated 1,690 financial report audits. You performed only 1,490. You expected to perform 24 union fiduciary audits and completed only 10. Can you tell us what caused these shortfalls?

Answer: The negative variance of 12 percent in financial audits was caused by the detailing of personnel to the OLMS Division of Technical Assistance and Disclosure to assist at various times in obtaining required annual financial reports from labor organizations under the delinquent reports program.

The shortfall of 14 union fiduciary audits arose from the fact that the Compliance Audit Program (CAP) has for the most part replaced that activity. The union fiduciary audit is generally utilized only when the situation is such that a full field audit is required. On most situations, however, the CAP is normally used since it requires much less time to complete, thereby conserving our staff time as well as reducing the disruption to the union involved.

COOPERATIVE LABOR-MANAGEMENT SPENDING ON INTERNATIONAL TRAVEL

Question: In justifying your Labor-Management Relations budget you point out that officials participated in international meetings such as that of the Organization of Economic Cooperation and Development Working Party on Industrial Relations in Paris in January of 1984 and a conference in March of last year sponsored by the Department and the Israeli Labor Ministry on "Labor in Changing Industrial Societies." How much did you spend on this sort of international travel in fiscal year 1984 and how much do you plan to spend in 1985 and 1986?

Answer: The cost for the Paris meeting was assumed by the State Department. Travel expenses for the Israeli conference amounted to $1,500.

During FY 1985, the only foreign travel planned is for an OECD Working Party meeting, the expenses for which will be met by the State Department.

In an effort to control costs, we have postponed indefinitely a conference in Israel that was planned for spring 1985 as part of our Department-to-Ministry program.

We do not presently have any foreign travel plans for FY 1986.

LABOR-MANAGEMENT RELATIONS RESEARCH CONTRACTS

Question: Mr. St. Cyr, last year in response to a question submitted for the hearing record you listed three research contracts entered into under the Coopertive Labor-Management Program in fiscal year 1984 and indicated that two of the the three were sole source proposals. Why can't you handle your contracting operation on the basis of requests for proposals which then compete with each other?

Answer: In fiscal year 1985, we are handling our contracting operation largely in a competitive mode. One contract, involving $29,250, or 8.4 percent of the contract research budget, was allocated by sole source procedures, only because the contractor was the single source of information for a case study of the very complicated cooperative arrangement. The remaining $320,750 will be competitively bid. But in FY 1984, our first year with contract funds since FY 1981, we took advantage of some unique opportunities. In one instance, the Bureau was able to use three years of data from Sloan School (MIT) research on the transition in labor relations to which we would add a two-year examination of a panel of "Sloan" companies to assess the permanence or transience of innovations occuring in collective bargaining and the labor-management relationship. The second sole source contract involved less than $10,000 and concerned labor-management-university cooperation to prevent a plant closing in Alabama. The plant was the Rochester Products Division of General Motors in Tuscaloosa; the union was the United Auto Workers (AFL-CIO); and the School was the University of Alabama. The contractor, by virtue of his employment elsewhere in the university, was neutral, yet had an access to the parties and a proximity to the company that made this a minimal cost contract for what we hope is a larger return to practitioners.

IMPACT OF CUTBACK IN RESEARCH FUNDING

Question: I understand you plan to spend $250,000 on contract research in fiscal year 1986. How would your operations be affected if we cut in half or eliminated your contract research funds for the coming fiscal year?

Answer: The requirements of Section 2901 of the Deficit Reduction Act resulted in postponement of several proposed projects from our fiscal year 1985 budget. These included studies which would have attempted to evaluate the effectiveness of cooperative arrangements (an elusive issue that researchers have not yet come to grips with), a contribution to a National Academy of Sciences major study on the impact of technological developments on future employment opportunities, productivity and quality of work life and finally a study on the impact of the operation of advance notice provisions in plant shutdown situations. If you cut our 1986 request in half, we will have to decide whether these studies will be deferred again or entirely removed from our plans for fiscal year 1986 and beyond. In addition, if your decision is to eliminate all contract funds, our plans to continue funding contemporary case studies of cooperation -- those most useful to practitioners initiating agreements or wishing to modify arrangements already installed -- would cease. While we would attempt to continue case studies prepared by in-house staff, present staff is too small to provide a sufficient number of cases annually. Since these cases are part of the Bureau's program offering technical assistance and knowledge and understanding to practitioners, the Bureau's program would be seriously impaired. Moreover, the need for the research would remain.

CRIMINAL INVESTIGATIONS

Question: Mr. Lebowitz, last year you estimated a criminal investigation workload of 108 cases processed in 1984 and 137 cases processed in 1985. You actually processed 30 cases in 1984 and now plan to process 39 cases in 1985. Can you explain this shortfall?

Answer: Fiscal year 1983 was the first year that the Pension program gained experience in dealing with criminal investigations. The original plans for 1984 were based on that limited experience as well as an estimated 29% productivity increase. The original 1985 plan included an additional 20% productivity increase. These estimates proved to be exceedingly ambitious.

As experience was gained, we realized that the very complex criminal investigations consumed more time than anticipated. In order to accomplish our objectives with regard to civil investigations, and as experience was gained in 1984, adjustments had to be made in both productivity estimates and staff year allocations. That adjustment led to a more realistic and achieveable projection for fiscal year 1985.

IMPACT OF SECTION 2901 RESCISSION ON INTERNATIONAL TRAVEL

Questions; Are you taking any international travel cuts as part of your Section 2901 rescission?

Answer: The Cooperative Labor-Management Program has postponed indefinitely a conference in Israel that was planned for spring 1985 as part of our Department-to-Ministry program. That was the only foreign travel planned for which costs were to be borne by the Bureau.

LABOR-MANAGEMENT SERVICES EQUIPMENT COSTS

Question: I note that your equipment costs for fiscal year 1984 went from an estimated $274,000 in last year's budget appendix to a final actual figure of $1,414,000 in this year's appendix. What happened to increase your equipment costs so sharply?

Answer: In an effort to respond to OMB's initiative to reduce the space utilization rate, the Department undertook an evaluation of the systems furniture concept. Pursuant to this evaluation, purchase of space efficient systems furniture for the National Office was authorized. This purchase allowed total staff to occupy less space and generate long-term savings through reduction in space rental costs.

RESOURCE ALLOCATION

Question: Roughly what percent of your resources are allocated to (1) Rulemaking, (2) processing exemption requests, (3) enforcing fiduciary standards, (4) policy, research and evaluation, (5) program administration, and (6) other?

Answer: The chart below provides the approximate percent of resources allocated as follows:

Responsibility	Percentage
Rulemaking	6
Processing exemption requests	4
Enforcing fiduciary standards	71
Policy, research and evaluation	3
Program Administration	5
Other	11

It should be noted that the 11% for other includes data base management, technical assistance and inquiries, and public information activities.

PENSION BENEFIT GUARANTY CORPORATION

STATEMENT OF CHARLES C. THARP, EXECUTIVE DIRECTOR

ACCOMPANIED BY:

- **DAVID M. WALKER, DEPUTY EXECUTIVE DIRECTOR FOR INSURANCE PROGRAMS, OFFICE OF THE EXECUTIVE DIRECTOR**
- **HENRY R. THOMPSON, DIRECTOR, CORPORATE BUDGET DEPARTMENT**

PREPARED STATEMENT

Senator WEICKER. Our next witness this morning is Charles C. Tharp, the Executive Director of the Pension Benefit Guaranty Corporation.

Mr. Tharp, would you introduce your colleagues, and your statement will be included in the record in its entirety, and proceed as you wish.

[The statement follows:]

STATEMENT OF CHARLES THARP

Mr. Chairman, members of the Subcommittee, I appreciate this opportunity to appear before you to present the Fiscal Year 1986 Budget for the Pension Benefit Guaranty Corporation (PBGC).

The PBGC was established under Title IV of the Employee Retirement Income Security Act of 1974 (ERISA). It is a self-financing, wholly owned Government corporation charged with guaranteeing the basic benefits of most private defined benefit pension plans. Its major source of revenue is the mandatory premiums collected from over 112,000 pension plans covering over 38 million participants. The PBGC receives no annual appropriation from the Congress, although we do have a limitation on the amount of our resources we may use for administrative expenses.

The PBGC's FY 1986 budget essentially reflects two overriding goals.
These are: 1) to put the Corporation on sound financial footing and 2) to handle an increasing workload with decreased resources.

For FY 1986 PBGC's Public Enterprise (Revolving) Fund revenues are estimated at $311,462,000, which is composed of $261,741,000 from premium income, $48,567,000 in investment income and $1,154,000 of other income. The premium income estimate reflects a proposed increase in the single employer premium rate from $2.60 to $7.50, effective for plan years commencing January 1, 1985 and after. Based on our projected expenses of $299,109,000, the current $2.60 premium level for single employer plans will not be sufficient to avoid substantial increases in the PBGC's deficit. A premium of $7.50 effective January 1, 1985 would enable the PBGC to retire its existing single employer deficit of $462 million in about fifteen years and to handle projected claims. Such an increase would put us on a proper course which leads to PBGC's preservation as a sound insurance corporation, allowing us with certainty to guarantee benefits to our beneficiaries. Legislation will be submitted to Congress to increase the single employer premium rate to $7.50 as indicated in the President's budget.

Should the proposed increase in the premium to $7.50 effective January 1, 1985 not be enacted by Congress, PBGC's estimated revolving fund revenues would be reduced significantly. At $2.60, FY 1986 revolving fund revenues would total $127,966,000, compared to an estimated $311,462,000 at a $7.50 premium. At a $2.60 premium level the current PBGC deficit of $462 million is projected to grow to $1.2 billion by 1989. Without a premium increase, the PBGC will add to the Federal budget deficit.

In addition to the premium increase, other critical provisions of the legislative proposal would close loopholes in current law that have resulted in millions of dollars in pension liabilities of ongoing firms being absorbed by the Corporation.

With regard to the PBGC's increasing workload, we are currently responsible for the benefits of 149,000 vested participants and beneficiaries; about 65,000 of these are currently in pay status; by the end of the FY 1986 budget year we expect to be responsible for the benefits of some 180,000 vested participants and beneficiaries with approximately 80,000 of them being in pay status.

Our FY 1986 budget assumes that efficiencies that will result from various management improvements will enable us to handle the increased workload with fewer administrative resources. Most significant of the improvements will be the implementation of the Corporation's Project Computers. When fully functional, this system will allow the Corporation to eliminate some $2 million in annual timesharing expenses. Perhaps of even greater significance will be the increased productivity that will result from state-of-the-art online data retrieval, office automation and microfiche capabilities, and automated capability to compute certain participant benefits and perform other processes that are now handled manually.

Another area of savings is our privatization effort. We plan to further our A-76 and related initiatives where the cost is beneficial. An example of this is our plan to use private contractors to assist in delinquent premium collections. Experience indicates a dollar return on such efforts of about 4 to 1. Private contractors will also be used to assist in reducing the inventory of insufficient termination cases requiring calculation of "final" guaranteed benefit levels. We are currently exploring how greater use of outside contractors can be made in the area of benefits administration.

The FY 1986 budget that we request is divided into three activities: Obligations for Benefit Payments, Financial Assistance and Program Administration.

The budget includes $211,000,000 to provide for pension benefit payments to participants and beneficiaries in terminated plans for FY 1986. This reflects our projection that by the end of FY 1986, PBGC will be responsible for monthly benefit payments of an estimated 80,000 pay status participants and beneficiaries as compared with about 65,000 pay status participants and beneficiaries for FY 1984.

The budget also includes $1,500,000 for the purpose of providing legally required financial assistance payments to insolvent multiemployer plans that are covered by the Multiemployer Pension Plan Amendments Act of 1980. ERISA requires the PBGC to provide financial assistance to a multiemployer plan if it is or will become insolvent and unable to pay basic benefits when due.

We plan Obligations for Program Administration in the amount of $32,346,000, which is indicated in our limitation language. This represents a net decrease of $727,000 and 8 FTE from the FY 1985 budget level. The net decrease is the result of the government-wide decision to reduce Federal pay by 5%, hold FY 1986 program funds to 1985 dollar levels regardless of cost increases, and reduce administrative services and overhead by 10% below the 1985 level.

Some significant highlights and accomplishments for FY 1984 and FY 1985 follow.

In FY 1984 the Corporation received 7,600 termination notices, up from about 6,000 in FY 1982 and 6,300 in FY 1983. The number of cases processed in FY 1984 increased to about 5,800, up from about 5,000 in FY 1983, 4,300 in FY 1982.

During FY 1984 construction of the new computer site was completed. The site also allows for future expansion of computer systems. The first major application to operate on the new computer facility is the Premium Accounting System which was converted from a time-sharing service. This system accounts for PBGC's annual premium collection of about $95 million (at current premium levels) from over 110,000 covered plans.

During FY 1985 PBGC will be reviewing or revising a number of its administrative policies and regulations to reduce the burden they impose on plans covered by the program.

In order to address the increasing volume of sufficient plan terminations, during FY 1985, the PBGC will institute an Enrolled Actuary Certification Program that will reduce paperwork and processing time for sufficient plans in the termination process. This voluntary program would allow plan administrators and enrolled actuaries to certify as to the plan data submitted and, subject to certain PBGC cross-checks, reduce the amount of time needed to process pending cases. The PBGC will continue to look for other such opportunities that increase efficiency and streamline existing requirements.

I am confident that this FY 1986 budget plan, along with those legislative changes I have briefly described and improved management efficiencies that result in reduced overhead expense and more efficient delivery of insurance benefits will result in a financial posture necessary to assure that the guaranteed payment of future pension benefits to some 40 million Americans will be met.

That concludes my opening statement, Mr. Chairman. I thank you and the members of this Committee for allowing the PBGC the opportunity to appear before you today. I will be happy to respond to any questions you may have.

INTRODUCTION OF ASSOCIATES

Mr. THARP. Thank you, Mr. Chairman. I have with me the Director of my Budget Department, Mr. Henry Thompson, and Deputy Executive Director, Mr. David Walker.

OVERVIEW

Mr. Chairman, I am pleased to have the opportunity to appear before you this morning. Let me give you some background about the PBGC and our budget. PBGC was established under title IV of the Employment Retirement Income Security Act of 1974. It is a self-financing, wholly owned Government corporation charged with guaranteeing the basic benefits of most private defined benefit plans. Its major source of revenue is the mandatory premium we collect from over 112,000 pension plans covering over 38 million participants.

I should note that our secondary sources of revenue are not from the annual appropriations, although your committee has established a limitation on the amount of our resources we may use for administrative expenses.

PBGC's fiscal year 1986 budget essentially reflects two overriding objectives. First, put the corporation on a sound financial footing, and, second, handle an increasing workload with decreased resources.

For fiscal year 1986 PBGC's public enterprise or revolving fund revenues are estimated at $311 million, which is composed of $261 million from premium revenue, $48 million in investment income and $1 million of other income.

The premium income estimate reflects a proposed increase in the single employer premium rate from $2.60 to $7.50 per participant effective for plan years commencing January 1, 1985, and thereafter.

Based on our projected expenses of $291 million, the current $2.60 premium level for single employer plans will not be sufficient to avoid substantial increases in the PBGC's deficit. A premium of $7.50 effective January 1, 1985, would enable PBGC to retire its existing single employer deficit of $462 million in about 15 years and to handle our future projected claims.

Legislation will shortly be submitted to Congress to increase the premium rate to $7.50 with accompanying legislative reforms.

Should the proposed increase in the premium to $7.50 effective January 1, 1985, not be enacted by Congress, PBGC's estimated revolving fund revenues would be reduced significantly. At $2.60 fiscal year 1986 revolving fund revenues would total $128 million compared to an estimated $311 million at a $7.50 premium. At a $2.60 premium level, the current PBGC deficit of $462 million is projected to grow to $1.2 billion by the end of 1989. Without a premium increase, the PBGC will add to the Federal budget deficit.

In addition to the premium increase, other critical provisions of the legislative proposal would close loopholes in current law that have resulted in millions of dollars in pension liabilities of ongoing firms being absorbed by the corporation.

With regard to PBGC's increased workload, I should note that we are currently responsible for the benefits of 149,000 vested participants and beneficiaries. About 68,000 are currently receiving checks from us. By the end of the 1986 budget year, we expect to be responsible for the benefits of some 180,000 vested participants and beneficiaries with approximately 80,000 in pay status.

Our fiscal year 1986 budget assumes that efficiencies that will result from various management improvements will enable us to handle the increased workload with diminished resources. Most significant of the improvements will be the implementation of our project computers. When fully functional, this system will allow the Corporation to eliminate some $2 million in annual timesharing expenses. Perhaps an even greater significance will be the increased productivity that will result from state-of-the-art, on-line data retrieval, office automation and microfiche capabilities and automated capability to compute certain participant benefits and perform other processes that are now handled manually.

Another area of savings is our privatization effort. We plan to further our A-76 and related initiatives where the cost is beneficial. An example of this is our plan to use private contractors to assist in delinquent premium collections. Experience indicates a dollar return on these efforts of about 4 to 1. Private contractors will also be used to assist in reducing the inventory of insufficient termination cases requiring calculation of final guaranteed benefit levels.

The fiscal year 1986 budget request is divided into three activities—obligation for benefit payments, financial assistance, and administrative costs.

The budget includes $211 million to provide for pension benefit payments to participants and beneficiaries in terminated plans for fiscal year 1986. This reflects our projection that by the end of fiscal year 1986, PBGC will be responsible for monthly benefit payments of an estimated 80,000 participants as compared to 68,000 at the present.

The budget also includes $1,500,000 for the purpose of providing legally required financial assistance to insolvent multiemployer plans that are covered by the Multiemployer Pension Plan Amendments Act of 1980. ERISA requires PBGC to provide financial assistance to a multiemployer plan if it is or will become insolvent and unable to pay basic benefits when due.

We plan obligations for program administration in the amount of $32.3 million, which is indicated in our limitation language. This represents a net decrease of eight FTE's from the fiscal year 1985 budget level. The net decrease in obligations for administration is the result of the Governmentwide decision to reduce Federal pay by 5 percent, hold fiscal year 1986 program funds to 1985 dollar levels regardless of cost increases, and reduce administrative services and overhead by 10 percent below the 1985 level.

OTHER HIGHLIGHTS

Allow me to mention certain other highlights. Our fiscal year 1984 annual report just released this week reports positive results of some $75 million, the best in the history of the corporation and the first positive result since fiscal year 1980. We gained some $62 million in a single employer program and $12 million in the multi. Unfortunately, that still leaves a deficit of some $445 million, which remains to be financed. It has allowed us to hold our premium request at $7.50 rather than some higher figure.

In fiscal year 1984, the Corporation received 7,600 termination notices, up from about 6,000 in fiscal year 1982 and 6,300 in fiscal year 1983. The number of cases processed also increased to about 5,800, up from 5,000 in 1983, and 4,300 in 1982.

Experience thus far in 1985 indicates continued growth in both categories of these numbers.

During fiscal year 1984, construction of our Project Computer site was completed. The site also allows for future expansion of computer systems. The first major application to operate on the new computer facility is our premium accounting system which is converted. This system accounts for PBGC's annual premium collection of about $95 million from over 110,000 covered plans.

During fiscal year 1985, PBGC will be reviewing or revising a number of its administrative policies and regulations to reduce the burden they impose on plans covered by the program.

In order to address the increasing volume of sufficient plan terminations, during 1985, PBGC will institute an Enrolled Actuary Certification Program that will reduce paperwork and processing time for sufficient plans in the termination process. This voluntary program would allow plan administrators and enrolled actuaries to certify as to the plan data submitted and subject to certain PBGC cross-checks, reduce the amount of time needed to process pending cases.

I might note in this respect, about 90 percent of the cases we process will be eligible for this program, and it will not be until we see it in operation that we will find out how many will avail themselves of this shortcut effort.

We will continue to look for other such opportunities to increase efficiencies and reduce existing requirements to assure that the guaranteed payment of future pension benefits to some 40 million Americans will be met.

This concludes my opening statement, Mr. Chairman. I will be happy to answer any questions.

PREMIUM INCREASE

Senator WEICKER. During the 98th Congress, the Pension Benefit Guaranty Corporation sought both an increase in pension plan insurance premiums from $2.60 per participant to $7.50 and program changes to close loopholes whereby employers can shift some or all of their pension liabilities to the Corporation.

Would the Pension Benefit Guaranty Corporation seek a premium increase even if so-called program loopholes are not closed at the same time?

Mr. THARP. No; we would not. I would say these two items are coupled for a very simple reason. The $7.50 level is predicated upon making savings and preserving us from future losses that would come if these substantial potential loopholes are not closed.

DEFICIT AS A RESULT OF CLAIMS DUMPING

Senator WEICKER. Since ongoing companies are liable to the Pension Benefit Guaranty Corporation for only 30 percent of their net worth if they terminate an insufficiently funded pension plan, some companies have ended their plans and dumped the unfunded liabilities on the Corporation since they amount to more than 30 percent of the company's net worth.

How much of your deficit is the result of companies working the insurance system and dumping claims on the Corporation?

Mr. THARP. It is hard to give a precise figure for that. I will be happy to submit a figure for the record. We do submit where the employer has disappeared because of bankruptcy or reorganization proceeding that our recoveries have been limited to only 6 percent of the unfunded liability. So the net worth limitation, especially those instances where net worth is very low, has been a substantial source of our losses.

Senator WEICKER. I have further questions for the record. I will turn to the other Senators. Senator Proxmire?

USE OF CONTRACTORS FOR DEBT COLLECTION

Senator PROXMIRE. In your opening statement, you emphasize your plan to use private contractors to assist in delinquent premium collections. How much of your delinquent debt do you intend to farm out?

Mr. THARP. At this point, we are using a cutoff of plans, 100 participants or greater, in order to pursue those. We found that to be a most cost-effective sector to followup with. If the premium is increased to $7.50, the point of diminishing return is lower. We would then go after those additional plans.

Senator PROXMIRE. So you would farm out——

Mr. THARP [interposing]. I'm sorry. I should point out we use both in-house and outside house resources in that followup effort. The major catchup effort is our form 5500 matchup program which was conducted. We are now going to be expanding that effort which we now have been able to automate that in-house with our project computers.

I would suggest our major effort in an ongoing way is an area that will also be done in-house. We will continue to look to see if there are cost-effective ways of contracting that activity.

Senator PROXMIRE. Can you give me some ballpark notion of how big a proportion of your delinquent premiums would be eventually farmed out? Would it be half, a quarter?

Mr. THARP. I would suspect the category would be in the order of 10, 15 percent of the total.

COST OF DEBT COLLECTION

Senator PROXMIRE. What percentage of the debt that the private contractors collect will they be able to keep?

Mr. THARP. These are not done on a contingency basis or percentage basis. They are paid on an hourly wage, thus there isn't any percentage figure.

Senator PROXMIRE. Do you have any notion of what the cost would be in relationship to collections—would it be 5 percent, 10 percent, or 15 or 20 percent?

Mr. THARP. Well, our payback on the effort that was conducted by PW was a quarter——

Senator PROXMIRE [interposing]. In other words, they kept 25 percent?

Mr. THARP. No, in effect their cost, an hourly wage and the dollars we pay them under the contract, for every one dollar we paid them under the contract, we got back $4 that they collected.

Senator PROXMIRE. Twenty percent.

Mr. THARP. Twenty percent.

DELINQUENT DEBT COLLECTION

Senator PROXMIRE. How much additional deliquent debt do you expect to collect in the next fiscal year as compared with 1984 and 1985 through the use of private contractors?

Mr. THARP. About $1.5 million in this fiscal year.

Senator PROXMIRE. I have a debt collection table from last year's hearing record that shows although total outstanding debt under "pension plan recovered assets" remains pretty constant at between $120 million and $125 million, the collection rate falls from 16.6 percent in 1983 to a projected 4.7 percent in 1985. That seems to be a really shocking dropoff. That would mean that you would fail to collect 95 percent of your debt this year. Can you tell us why you have projected that dropoff and why such a small collection rate is projected?

Mr. THARP. Our major catchup effort with regard to premium collection was our effort with Price-Waterhouse which was fiscal year 1983 substantially and some spillover to 1984.

I think in the current year, we are dealing with recalcitrants who are trying to get out. It is not easy to——

Senator PROXMIRE [interposing]. It wasn't very easy earlier. In 1983 you only collected 15 percent.

Mr. THARP. Remember, most of these companies we are dealing with are not healthy companies. They are reorganizations. Some have disappeared entirely. We are dealing with perhaps the least likely category of payers.

DEBT WRITE OFF

Senator PROXMIRE. It does seem to be a sharp dropoff, though, from 16 percent down to less than 5 percent. Do you ever write off any of this debt?

Mr. THARP. No; we keep an open book on this. I suppose at some point, we find it is more profitable to go after some of these people than others and that prioritization is done. We don't initially write off any of it.

Senator PROXMIRE. Why not, if the collection rate is so small——

Mr. THARP [interposing]. As long as we can get a payback of 4 to 1 on the ones we go after, we would like to try to go after them. It is only when we reach a de minimis level we are talking about very small plans and dollars, we will write it off.

Senator PROXMIRE. Thank you, Mr. Chairman. I will submit the rest of my questions.

Senator WEICKER. Senator Chiles.

[The information follows:]

[The Department wishes to clarify the witnesses response to this question since the phrase, pension plan recovered assets does not relate to premium collection but rather to the collection of employer liability.]

Outstanding pension plan recovered assets between $120 million and $125 million refers to debt as a result of uncollected employer liability. Receivables are recorded for pension plan recovered assets based on signed deferred repayment agreements. Projected collections are based on the due dates of the deferred payments. As it so happens for the fiscal year 1985–86 period, a substantial portion of the deferred payments will become due shortly after the close of fiscal year 1985. Consequently, projected fiscal year 1985 collections are abnormally low, while those projected for fiscal year 1986 and fiscal year 1987 are correspondingly high.

The issue of the collection of employer liability is distinct from the Corporation's use of outside contractors to locate delinquent premium payers.

PROPOSED LEGISLATION

Senator CHILES. Thank you, Mr. Chairman. I am interested in what your feeling is, how we are going to close the loopholes? Have you proposed legislation?

Mr. THARP. Yes, Senator. Thank you for raising that question so I can speak to the record on that point. We have had substantial losses in areas where there are ongoing companies. This is a matter the chairman referred to in one of his questions. Where a company that is ongoing has terminated its pension plan——

Senator CHILES [interposing]. We are reading that everyday that they are just taking this money into the profit side almost.

Mr. THARP. Yes; that is a second issue where there are excess assets reverting to the corporations. Let me give you the answer to that in two parts.

First, the insufficiently funded plan which affects our bottom line. In the insufficiently funded, we are seeking to reform the ability they now have where 20 percent of our losses come from plans that are ongoing and never went into bankruptcy or came out of reorganization of those companies would now be subject to stress termination tests.

We would no longer dump the liability on PBGC. You would have to come to us and prove there is a substantial hardship situation before terminating that plan.

Furthermore, if the company is ongoing, we would have a 10-percent profit interest for up to 10 years following date of termination. If the company continues, makes a profit and is successful, then they have to pay something for the pension liabilities. That is the first part of your question.

The second part of the question relates to the excess assets issue. As you know, last year the administration and its interagency task force on this matter reviewed this intensively. We came up, after many weeks and months of review, with a set of administration guidelines dealing with this.

I am very pleased to be able to report today in the wake of those guidelines announced in May, we have seen a substantial change in the nature of these terminations. Whereas before those terminations, only 23 percent of the participants were getting successor pension plans that gave them the full benefits they were expected to receive before the termination, now with the guidelines, we are seeing 68 percent of all participants covered in the successor defined benefit plans. I think that is a tremendous turnaround. We are very gratified that has been the case. However, there are continuing to be these excess assets diversions, and we are continuing to monitor them as they proceed.

RETROACTIVE ACTION

Senator CHILES. Are we doing anything retroactive where someone has done that to, in effect, give some of those benefits back to the workers?

Mr. THARP. As I said, there is a new set of guidelines. We must recognize the decision to establish a pension plan or terminate a pension plan has always been a voluntary one in our economy. We can't require people to continue those benefits if the company is unable or unwilling to.

What we can do is encourage them to maintain them at the full level they have been at before, and that was the intention of our guidelines, to encourage people in that direction.

In the 9 or 10 months since the guidelines were brought into being, we have seen substantial progress toward that end. I am very pleased with that 68-percent statistic. We are continuing to monitor this, however. Every termination that comes in is processed by us. We are sensitive to certain potential abuses.

For instance, one of the areas the guidelines addressed was the lump-sum payout. Some companies have been looking at lump sum discount rates in order to pay out their employees at low levels, on discount rates as high as 15 percent. The worker can't go out and get 15 percent at his local savings and loan on the money he has given in a lump sum, nor can he go out and buy an annuity.

We felt this was unfair and unreasonable, so we are proposing a regulation that specifies the lump sum discount rate has to be at least the current PBGC rate, which is based on current market rates for annuities or the plan annuitization rate whichever one is more favorable to the worker. We are going to continue to monitor this area.

Senator WEICKER. Senator Burdick.

COMPARISON WITH IRS

Senator BURDICK. Thank you, Mr. Chairman. I listened with interest to your testimony. Running through my mind is I am trying to make an analogy or comparison with IRS. What do they pay for back taxes?

Mr. THARP. They have significantly greater enforcement techniques and power than we do. It is appropriate that they have those powers. We initially invoice people for the amounts due. Then if there isn't payment made, we invoice them again. Ultimately, if it is a substantial sum, we take them to court, but it is a lengthier process, I am sure, than the business of tax liens and other powers the IRS has.

ENFORCEMENT POWERS

Senator BURDICK. There may be more benefits if you had a little more enforcement machinery, like the IRS.

Mr. THARP. That is true. I think we are doing a fairly good job with what we have. I would hate to take on additional powers——

Senator BURDICK [interposing]. You are farming it out. That is costing you some money.

Mr. THARP. That is true. Most of that farm-out effort has been in the area of ascertaining the amounts that are due and seeing where we might have missed the opportunity to bill in the first place. We haven't done any farming out in terms of what is often thought of as debt collectors or the fellow who appears at the doorstep and knocks on the door late in the day to collect some money. It has been in the area of computerization and the matching program.

Senator BURDICK. Having been in the law business, sending a few notices out doesn't bring results. A little action does.

Mr. THARP. Yes, sir, I see what you are saying.

Senator BURDICK. You ought to think about that a little bit. Thank you. That's all.

Senator WEICKER. If there are no further questions, the remainder of the questions will be submitted for response to the record.

USE OF PRIVATE CONTRACTORS

Senator PROXMIRE. If the chairman will allow me, I will ask one question. Mr. Tharp, on page 4 of your statement, you say, "An example of this is our plan to use private contractors to assist in delinquent premium collections." That seems to me to be a little different approach than the one you have just described to Senator Burdick.

Mr. THARP. I apologize, Senator. That may, indeed, sound misleading. I didn't intend to indicate we were hiring private debt collectors or private lawyers to pursue these individual cases.

Senator PROXMIRE. Private contractors are not assisting you in actual premium collections?

Mr. THARP. We have had private accounting firms assisting us in ascertaining the amounts due.

QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator PROXMIRE. Thank you. Thank you, Mr. Chairman.

Senator WEICKER. Thank you very much, Mr. Tharp.

[The following questions were not asked at the hearing but were submitted to be answered for the record:]

QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

PROPOSED "TERMINATED PENSIONERS SURVIVAL ACT"

Question. Legislation has been introduced in the Senate to provide limited payments to workers under pension plans terminated prior to 1974, when Congress enacted the Employee Retirement Income Security Act.

How many older Americans do you estimate were stripped of their pensions due to plan terminations between the years 1944 and 1974?

Answer. The Department of Labor sponsored a study in 1979 on pre-ERISA plan termination benefit losses. Using available data and estimation techniques, the study concluded that about 114,000 vested participants lost benefits due to plan terminations in 1942-74 and that about 83,500 of these individuals were probably still living as of July 1, 1979.

Question. Why shouldn't this injustice be corrected?

Answer. The Department of Labor-sponsored study estimated that the present value as of Juy 1, 1979, of lost future benefit payments for the 83,500 surviving participants was $207.8 million, but that the amount of the average annual lost benefit was only $446 per participant. The administrative cost of locating affected participants would likely be disproportionately large compared to the individual benefits which would ultimately be paid.

Question. Is it administratively feasible to extend coverage of the Employee Retirement Income Security Act to pension losers prior to 1974?

Answer. The task of identifying and locating qualifying participants would be enormous since there is no listing of those individuals. Presumably, many of the plans terminated because of the closing of the sponsoring business. Many ongoing sponsors are likely to have ceased operations since the plan termination.

A nationwide canvassing, for example, through the social security benefit payment system, might be required. However, verification of past plan participation would be difficult if not impossible in many cases because of the absence of plan records. In addition to identifying and locating participants, it would be necessary to determine their lost benefits. Again, this task would be virtually impossible without plan records.

RISK-RELATED PREMIUM

Question. In response to a question last year, the Corporation stated it would convey a study of a graduated risk-related premium structure as soon as it received its board's approval.

Could you give us a status report on when the Corporation will make available the study called for in the 1980 Multiemployer Pension Plan Amendments Act on the advantages and disadvantages of a risk-related premium?

Answer. Much work has been done on this study and a significant amount of additional work is in progress. We plan to make the study available later this year.

FINANCIAL HEALTH OF INSURANCE PROGRAMS

Question. The Pension Benefit Guaranty Corporation maintains two separate insurance programs: (1) the Single-Employer Termination Insurance Program for companies that sponsor their own pension plans and, (2) the Multiemployer Termination Insurance Program, where many companies participate in the same centrally administered plan.

What is the financial health of the Multiemployer Pension Plan Insurance Program compared to the Single-Employer Insurance Program?

Answer. The Multiemployer Insurance Program is in much better financial condition than the Single-Employer Insurance Program in no small part because of enactment of reforms now requested for single-employer plans. The PBGC's financial statement as of September 30, 1984, indicates an excess of assets over recorded liability or accumulated reserve for the multiemployer program amounting to $17,211,000 whereas the single employer program shows a deficit of $461,989,000.

PENSION GUARANTEES—MULTIEMPLOYER PENSION PLAN AMENDMENTS OF 1980

Question. With the passage of the Multiemployer Pension Plan Amendments Act of 1980, an employer who drops out of a multiemployer plan is required to continue making payments for his fair share of the plan's unfunded vested liabilities. This withdrawal liability, which is intended to remove the financial incentive for withdrawal, can amount to up to 100 percent of an employer's net worth.

Is perspective employer liability discouraging companies from joining multiemployer pension plans?

Answer. The PBGC does not have the comprehensive data on the incidence of employer entries into and withdrawals from multiemployer plans which would be required to form such a conclusion. The General Accounting Office is currently conducting a study on the impact of the Multiemployer Pension Plan Amendments Act [MPPAA], pursuant to section 413(a)(1) of MPPAA.

PENSION GUARANTEES—RETIREMENT EQUITY ACT OF 1984

Question. The Retirement Equity Act of 1984 requires pension plans to provide a preretirement survivor benefit when a vested participant dies.

Does the Retirement Equity Act of 1984 require survivor benefits to be paid to the widows or widowers of workers who die before being eligible to retire under terminated plans PBGC has already taken over or will take over in the future?

Answer. Under existing PBGC regulations the PBGC does not guarantee or pay preretirement survivor annuities in a terminated plan unless the participant dies before the date of plan termination. The PBGC is reviewing its regulations in light of the Retirement Equity Act [REA] to determine what changes, if any, should be made.

Question. What will this cost?

Answer. The PBGC has not yet made any calculations of additional costs which might be associated with the qualified preretirement survivor annuity provisions of REA.

EMPLOYMENT STANDARDS ADMINISTRATION

STATEMENT OF SUSAN R. MEISINGER, DEPUTY UNDER SECRETARY

ACCOMPANIED BY:

- JAMES W. KIGHT, DIRECTOR, OFFICE OF MANAGEMENT, ADMINISTRATION AND PLANNING
- KAREN S. SEVERN, DIRECTOR, DIVISION OF FINANCIAL MANAGEMENT
- JOHN R. FRASER, DEPUTY DIRECTOR, OFFICE OF MANAGEMENT, ADMINISTRATION AND PLANNING
- HERBERT J. COHEN, DEPUTY ADMINISTRATOR, WAGE AND HOUR DIVISION
- LAWRENCE W. ROGERS, DIRECTOR, OFFICE OF WORKERS COMPENSATION PROGRAMS

PREPARED STATEMENT

Senator WEICKER. We will now hear from Susan R. Meisinger, the Deputy Under Secretary for Employment Standards Administration at the Department of Labor.

Susan, why don't you introduce those with you and proceed in any way you wish. We will insert your statement in the record first.

[The statement follows:]

STATEMENT OF SUSAN R. MEISINGER

Mr. Chairman and Members of the Subcommittee, I am pleased to appear before you today representing the Employment Standards Administration (ESA) of the Department of Labor.

The Employment Standards Administration's FY 1986 budget request for Salaries and Expenses is for $206,040,000 and 4,021 positions. This represents a net decrease of $11,107,000 and a reduction of 92 positions compared to FY 1985 funding levels. These decreases are directly related to the initiatives to reduce and consolidate small regional offices, to reduce administrative costs and pay levels, and other cost reduction initiatives. We do not anticipate any adverse program effects as a result of these reductions.

The Special Benefits fund request for FY 1986 is for $1,144,500,000 of which $259,500,000 is a direct appropriation to the Department of Labor and $885,000,000 represents reimbursements from other agencies' appropriations or revenues. The FY 1986 Black Lung Disability Trust Fund request is for $984,000,000. We are asking the appropriation committees to include language in the appropriation act to assure that the five percent reduction in the Federal pay rates will not reduce benefits paid to disabled coal miners in the Black Lung program.

A FY 1985 Supplemental Appropriation of $2,000,000 is requested, for costs related to the January 1985 pay raise for Federal employees.

ESA is also submitting a FY 1985 rescission proposal of $2,235,000. Pursuant to Section 2901 of the Deficit Reduction Act of 1984 (P.L. 98-369), a total of $1,635,000 is proposed for rescission to achieve savings in several areas, including: travel and transportation of things; consulting services; printing and publications; and administrative and support services. There will be no adverse program effects as a result of this rescission. The proposal would also rescind $600,000 and 50 positions added by Congress for the expanded Special Targeted Enforcement Program in the Wage and Hour Division. The purpose for which this staff was to be utilized can be met within the resources proposed for FY 1985.

We have made and will continue to make substantial progress in productivity improvements to better serve the public while, at the same time, reducing expenses. The cornerstone of this effort remains the implementation of an agency-wide ADP support system with special emphasis on the Level II ADP system for the Federal Employees' Compensation program. These improvement efforts, together with the cost reduction initiatives mentioned above, have allowed ESA to reduce positions in each of its major program activities without loss of service to the public and without adverse effects on program operations.

Enforcement of Wage and Hour Standards

A total of $68,621,000 and 1,430 positions is requested for the Wage and Hour Division. This reflects a net decrease of $4,317,000 and 26 positions below FY 1985 levels. There will be no adverse impact on program operations. Performance and production will remain at FY 1985 levels.

In the Fair Labor Standards Program, we will continue to focus on workers in low wage industries. Approximately 70,000 investigations will be completed, including 16,000 Special Targeted Enforcement Program investigations directed at employers and industries suspected of hiring illegal aliens at less than legal wages. In the Government Contract Wage Standards program, about 4,500 investigations will be completed. Compliance actions under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) will total 4,700, covering 110,000 workers, and will be focused on the worst violators of standards affecting the living and working conditions of protected workers.

The initial phase of the Wage and Hour Management Information System (WHMIS), an automated case tracking and statistical information system, has become fully operational. A second phase of WHMIS is currently underway. That phase includes a MSPA registration subsystem and a special minimum wage certification program. WHMIS is now providing information which has already resulted in improved program management and accountability. The Division is also in the process of automating a tracking system for requests for wage determinations for the SCA and DBRA programs.

Federal Contractor EEO Standards Enforcement

A total of $43,432,000 and 922 positions is requested for the Office of Federal Contract Compliance Programs (OFCCP). This reflects a net decrease of $3,406,000 and 42 positions below FY 1985 levels. There will be no adverse effects on program operations. On the contrary, enforcement activities will increase due to improved compliance review procedures and the conversion of additional overhead positions to enforcement and regulatory activities.

Compliance reviews to be conducted will total 5,850, a seven percent increase over FY 1985. Complaint workloads are under control with complaints being assigned for investigation promptly and complaint inventories continuing at FY 1985 levels. Progress continues to be made in the establishment of and coordination with liaison groups, composed of a broad spectrum of parties interested in exploring general problems and solutions, as well as addressing aspects of the contract compliance program unique to their respective employment situations. By the end of FY 1984, approximately 245 such groups had been established. Improved ADP systems continue to receive attention and we are exploring the use of microcomputer technology to support OFCCP's growing information needs.

Federal Programs for Workers' Compensation

In the Workers' Compensation programs, we will continue the overall direction established at the beginning of this Administration to improve the responsiveness and efficiency of all compensation programs. Quality claimant service, as well as reducing costs and vulnerability to fraud, waste, and mismanagement, will continue to receive our close attention.

Federal Employees Compensation Act

A total of $50,579,000 and 914 positions is requested to administer the Federal Employees' Compensation Act (FECA) program.

This reflects a net decrease of $1,690,000 and 14 positions below FY 1985. Production and performance will remain at FY 1985 levels.

Priority will be given to implementation of the Level II ADP system and its installation in all District Offices by the end of FY 1986. Improvements will continue to be made in the timely and accurate adjudication of claims and issuance of benefit payments. Rehabilitation and reemployment of claimants will be given special attention as will debt collection activities. The program to investigate questionable compensation claims will be continued.

Although we have made many improvements in the administration of the Federal Employees' Compensation Act, this Administration continues to support reform legislation to modify the Act's benefit structure and to make further improvements that can only be accomplished through the legislative process.

Longshore and Harbor Workers' Compensation Program

A total of $6,936,000 and 157 positions is requested. This reflects a net decrease of $798,000 below FY 1985 which will be achieved through the reduction in Federal pay rates, and other cost reduction initiatives. Emphasis will be focused on meeting performance standards for claims processing and adjudication and for monitoring compensation payments. Providing prompt rehabilitation services to disabled workers will, of course, continue to receive high priority. An ADP system, integrating case management and fiscal and insurance functions, is being developed and will be fully implemented in FY 1986.

Amendments to the Longshore and Harbor Workers' Compensation Act, enacted in September 1984, modified the benefit structure, reduced coverage, and made other improvements in the Act. Implementation of the new amendments and their effect on the program will be carefully monitored.

Black Lung Program

Resources requested are for $24,040,000 and 401 positions. The staffing is the same as the FY 1985 level while the funding requested reflects a net increase of $566,000. The primary objectives of the Black Lung Program remain the timely and accurate determination of eligibility, the delivery of benefits and medical services to beneficiaries, and support for the processing of hearings and appeals. The cost of medical benefits, as well as the frequency of care, will be the most significant and substantial areas of program activity.

Executive Direction and Support Services

A total of $12,432,000 and 197 positions is requested. This reflects a net decrease of $1,462,000 and 10 positions below FY 1985 levels. This activity will continue to provide effective overall policy and executive direction. Emphasis will remain on upgrading and refining financial and internal control systems in the areas of debt collection, cash management, and prompt payment under the Reform '88 program. Special emphasis will be placed on coordinating the Department's consolidation of certain support functions into a National Capital Service Center and implementing the small region initiative. EDSS will also continue the implementation of ESA's on-going five-year ADP plan for developing an agency-wide management information and automated data processing system.

Conclusion

Mr. Chairman, this concludes my formal statement. The budget request reflects our committment to protect the interests of workers, as well as to support reduction of the Federal deficit. My staff and I will be pleased to answer any questions which either you or members of the Subcommittee may have.

INTRODUCTION OF ASSOCIATES

Ms. MEISINGER. Joining with me is, to my left, Jim Kight, Director, Office of Management, Administration and Planning. To my right is Karen Severn, Director of Budget and Finance.

OVERVIEW

I would like to give you an overview statement and, in the interest of time, take any questions you might have.

I am presenting the fiscal 1986 budget for salaries and expenses and for the special benefits and black lung disability trust fund accounts; fiscal 1985 supplemental appropriation request for the costs related to the January 1985 pay raise for Federal employees; and fiscal 1985 rescission proposal.

The fiscal 1986 budget request for salaries and expenses is for $206,040,000 and 4,021 positions. This reflects a net decrease of $11,107,000 and 92 positions below the fiscal 1985 levels.

We do not anticipate any adverse program effects as a result of these reductions.

The special benefits fund request for fiscal 1986 is for $1,144,500,000, and the black lung disability trust fund is for $984 million.

The pay raise supplemental amount is for $2 million. The fiscal year 1985 rescission proposal amounts to $2.235 million, of which $1.635 million is related to section 2901 of the Deficit Reduction Act of 1984, and $600,000 and 50 positions for the expanded Special Targeted Enforcement Program. The purpose for which this staff was to be utilized can be met within current resources.

We are asking also that the Appropriations Committee include language in the Appropriations Act to ensure that the 5-percent reduction in the Federal pay rates will not reduce benefits paid to disabled coal miners in the Black Lung Program.

This concludes my brief overview. I would like to say we have been making, and will continue to make, progress in productivity improvements in order to better serve the public and reduce the Government's cost of doing business. We will be pleased to take any questions you might have.

SPECIAL TARGETED ENFORCEMENT PROGRAM

Senator WEICKER. You are proposing to rescind $600,000 added by Congress for 50 compliance staff to strengthen the Special Targeted Enforcement Program.

You say you cannot effectively use more staff to investigate employers suspected of utilizing illegal aliens at less than legal wages.

Ms. MEISINGER. We believe that the staff we have currently is adequate to increase the STEP enforcement activity, and we are projecting to increase STEP actions for the Targeted Enforcement Program to approximately 16,000. The original plan was for 13,500 compliance actions, and we feel that we can achieve the ends sought by the Congress with the resources on hand.

Senator WEICKER. What percentage of the total illegal alien work force are you currently able to investigate?

Ms. MEISINGER. Since the estimates on illegal aliens are all over the map, I would have difficulty in giving you an estimate.

Senator WEICKER. I dare say 16,000 is minuscule.

Ms. MEISINGER. Well, we handle all complaints that come in, in a timely manner. We still have a targeted program as well. We feel that, as a cop on the beat, we are meeting the needs.

Senator WEICKER. In an editorial out of U.S. News & World Report, they estimate—I gather they get their information from INS—6 to 7 million illegal aliens are already here replacing American workers. Their estimate is 6 to 7 million. This is 16,000?

Ms. MEISINGER. We feel it is adequate. In terms of illegal aliens, their presence is often difficult to uncover in the best of circumstances. Investigations are targeted based historically, on industries where they can be found and evidence of wage violations—obviously it would be nice to have a wage and hour enforcement officer at every employer's place checking ID's as employees go in to make sure nobody is abused. I don't think that is the intent of the original law.

Senator WEICKER. No, I don't either; $600,000 was added by the Congress for 50 compliance staff, at least it takes a step in that direction. Now you are asking us to rescind that.

Ms. MEISINGER. The increase from 13,500 compliance actions that we were planning for the Targeted Enforcement Program to 16,000, in fact, exceeds what we estimated the $600,000——

Senator WEICKER [interposing]. I find this to be totally at odds with the emphasis of both the administration and the Congress in trying to deal with these illegal aliens. I am not arguing the 16,000 figure. I will be candid with you, I think it is a ridiculous figure. Even assuming they might be 1 million or so off, we are dealing with enormous numbers. It would seem to me that this would be the least likely area for rescission considering the fact everybody is up in arms about this matter, and I say everybody—the President is; the Congress is—how are we going to combat this problem without the funds?

Ms. MEISINGER. I don't disagree regarding the problems with the illegal aliens. I think INS is the front-line agency responsible——

Senator WEICKER [interposing]. Boy, I don't. I don't think anybody else does. The front line of this problem is the place of employment. We go ahead with planes and boats and guards and everything else—there is just no way in a free country such as ours INS can do anything. This is the place where it has to be. That is just penny wise and pound foolish.

YOUTH SUBMINIMUM WAGE

The administration is once again proposing legislation to pay subminimum wages for youth during the summer months. How much do you estimate it would cost to enforce such legislation?

Ms. MEISINGER. We don't anticipate any increase.

Senator WEICKER. Really?

Ms. MEISINGER. We currently enforce over 80 laws when we do investigations. We check for violations under any number of laws. This would become part of the regular schedule of investigation.

Senator WEICKER. I would like to see what is going to happen relative to employers illegally firing adults in order to hire lower-paid youths You don't think it is going to require enforcement?

Ms. MEISINGER. We don't anticipate that the displacement is going to be great. The legislation is drafted, though, to preclude that from happening, to put a preventive measure into law. I don't anticipate——

Senator WEICKER [interposing]. Which is going to require enforcement.

Ms. MEISINGER. Yes.

Senator WEICKER. Which is your department.

Ms. MEISINGER. Yes; and I don't anticipate any increase in workloads, at least not a substantial increase in workloads.

Senator WEICKER. How much has the Labor Department spent promoting this legislation, including travel costs associated with meetings and speeches by various officials?

Ms. MEISINGER. I don't know that we have been promoting the legislation.

Senator WEICKER. I would like to have that for the record, and that means the whole department, including the Office of Legislation.

[The information follows:]

PROMOTIONAL FUNDING OF YEOW LEGISLATION

Development, design, and refinement of the youth employment opportunity wage [YEOW] proposal has taken more than 3 years Indeed development of this proposal is an outgrowth of earlier efforts reaching back for more than 15 years. As in the case of many legislative proposals we have sought the views, assistance, and guidance of people from within the Department, from within the rest of the administration and from outside government DOL personnel, as well as others in the administration, have endeavored to be fully responsive to congressional and public questions concerning our views on this legislation Materials have been prepared and distributed to explain the proposal These activities have been carried out by personnel whose responsibilities and time cover various issues. Our records to not permit an accurate and comprehensive tabulation of the amount of time spent in developing, discussing, and explaining the YEOW proposal Your question concerning travel for speeches discussing YEOW is also difficult to answer. YEOW, as well as other departmental programs, such as JTPA, cooperative labor management, and other issues has been mentioned in numerous speeches by the Secretary, the Under Secretary, and other Department officials. After checking our records we have identified $3,014 in travel expenditures where the chief topic of discussion appeared to have been YEOW.

SHELTERED WORKSHOPS

Senator WEICKER. Currently, I understand the Department of Labor investigates approximately 10 percent of the approximately 5,000 sheltered workshops which are issued special minimum wage certificates by your Wage and Hour Division. Do you feel that is sufficient?

Ms. MEISINGER. Yes; we currently investigate all complaints that come in. The sheltered workshops have certification procedures which require them to provide us with the necessary information.

Senator WEICKER. Have you received complaints that your investigators are not fully conversant with the complexities of the sheltered workshop regulations?

Ms. MEISINGER. Personally, no. I am sure there have been complaints, simply because there are complaints in every aspect of what we do in a given year. I am not aware of any particular problems.

The sheltered workshops pose particular problems because of the nature of what is going on within them and the time studies and analysis of productivity for individual clients within the workshop, but no particular cases have been brought to my direct attention.

Senator WEICKER. I notice the question is in there, are we aware of this matter?

Mr. DOYLE. It seems there is a recurrence of newspaper reports, every 4 or 5 years, of workshops which are badly underpaying handicapped people who are allowed to work at a subminimum wage condition.

When you take a look at the enforcement activities, the 10-percent listed in the question is largely occasioned, as I understand it, by complaints or some reason that there is a problem as opposed to spot checks by your office to keep the other 90 percent on their toes. As this is an area where the Government has allowed business and nonprofit entities to encourage employment of people at less than minimum wage; it really demands particular attention.

Ms. MEISINGER. I am not aware of the problem.

Senator WEICKER. Do you do spot checks?

Ms. MEISINGER. I believe so. Herb Cohen is Deputy Administrator.

Mr. COHEN. Yes; we do since this is a program where we receive applications which have to be renewed annually.

Senator WEICKER. I am not talking about that.

Mr. COHEN. We do review the applications and target investigations where there are indications there are violations occurring.

Senator WEICKER. I am not talking about complaints. I am not talking about renewal of certification. I am talking about for no reason at all that relates to either of those matters, of moving in there and conducting an investigation.

Mr. COHEN. We do target what we believe is a representative sample and, again, we base those targeted investigations on information coming in which might suggest that there are violations occurring.

Senator WEICKER. I would like a more complete answer for the record on exactly what has been done in this area. These are the types of situations where certainly a Federal oversight is necessary.

As John properly indicates, an oversight is uncalled for by particular scheduled events or any particular event, it is just a matter of some funding——

Ms. MEISINGER [interposing]. We have been concerned about the Sheltered Workshop Program. This administration renewed the Sheltered Workshop Advisory Committee where we have various representatives from the different type of workshops, as well as from labor and client populations. This advisory committee provides us with guidance, and has provided us with a number of recommendations that are still undergoing review.

[The information follows:]

SHELTERED WORKSHOPS

Sheltered workshop investigations are conducted as a result of complaints or as directed by regional offices of the Wage and Hour Division. However, approximately 75 percent of all sheltered workshop investigations are conducted on a directed basis.

In recent years, we have investigated 8 to 10 percent of all sheltered workshops certificated by this Department. This is four times greater than the investigation rate for the total universe of employers covered by FLSA.

The Department has an ongoing program to increase the effectiveness of its sheltered workshop investigation program. We are providing additional training for compliance officers in the area of work measurement and time studies so they can better evaluate handicapped worker productivity. We are holding periodic conferences for our regional certification specialists, who monitor the investigation program in their regions, to discuss certification and investigation problems and procedures. We have also been conducting a series of regional meetings for workshop personnel to provide them with technical assistance in meeting statutory and regulatory requirements. The Advisory Committee on Sheltered Workshops has been reestablished to provide guidance on, among other things, the investigation of sheltered workshops.

The Department takes very seriously its special responsibilities in this area. Investigations are carried out by specially trained compliance officers. Copies of all investigations are referred to the national office for review. Although we have, in the course of our investigations of sheltered workshops, uncovered violations, we have not uncovered evidence of systematic or widespread compliance problems.

FECA ADP CONTRACT

Senator WEICKER. Early last year the Labor Department awarded an 8-year contract for approximately $100 million to provide computer hardware and software associated with automation of the Federal Employee's Compensation Act program. The latest inspector general's report disclosed that "no major contractual deliverables have been met satisfactorily by the contractor."

How far behind schedule is the contract work? Does the contractor dispute who is responsible for the delays, and what action could you take against the contractor if delays continue?

Ms. MEISINGER. We currently have pending with us a request from the contractor for a 6-month extension, and we are in discussion with the contractor regarding its timetable. We are reviewing a detailed contract plan of action for the life of the contract, and our discussions will be based on consideration of what is necessary for the program and the best interests of the Government.

Senator WEICKER. Why a 6-month extension? How many people did you have bid on this contract? It is a big contract. How many people were on the original bidding?

Ms. MEISINGER. There were three major bidders.

Senator WEICKER. Three major bidders.

Ms. MEISINGER. Yes; three who submitted proposals in response to the request for proposals.

Senator WEICKER. Request for proposals. Martin Marietta; who else?

Mr. FRASER. The other two bidders were Electronic Data Systems and M/A Comm Sigma Data.

Senator WEICKER. How does somebody get away with a contract this size and asking for a 6-month extension? I don't understand that. I would throw them out on their ear and put it up again. Why should we wait around for that business?

Ms. MEISINGER. John Fraser, is the Deputy Director for the Office of Management, Administration and Planning.

Mr. FRASER. The cause of the problem is many fold, prominent among which is the change in contract management that occurred three times during the first 6 months of the contract.

Senator WEICKER. Changing contractor management.

Mr. FRASER. Yes; in terms of evaluating the tradeoff between your proposal to throw them out on their ear and trying to reach an accommodation which results in a satisfactorily finished product, we have to take into consideration the timeframe and costs for starting over again, and that is what we are doing in the current negotiation process.

Ms. MEISINGER. That question has been asked within the Department before.

Senator WEICKER. I tell you, I wish a few of you guys would do that. Maybe these guys would stop horsing around. It is this experience, it is everything else you let out for bid. You just lose credibility if you don't do that. That is a big corporation and, I might add, at least the other one, EDS is a big corporation. I am not familiar with the third one. I can't believe there is not even a penalty clause in the contract you have.

Ms. MEISINGER. We do have provisions for liquidated damages.

Senator WEICKER. I want the committee to be kept apprised of this.

Ms. MEISINGER. We are currently providing, at the request of the House Appropriations Committee, quarterly reports, and we would certainly love to share them with you.

Senator WEICKER. When do you estimate this matter is going to be resolved, if it is going to be resolved?

Ms. MEISINGER. The current negotiations?

Senator WEICKER. Yes.

Ms. MEISINGER. We estimate 30 to 60 days.

Senator WEICKER. Senator Proxmire.

FEDERAL EMPLOYEES' COMPENSATION ACT PROGRAM

Senator PROXMIRE. Thank you, Mr. Chairman. Mr. Chairman, I agree wholeheartedly with your observation.

Secretary Meisinger, you are asking for $50,579,000 in 1986 to administer the Federal Employees' Compensation Act, FECA. The Department's inspector general has reported that a matching of FECA records with other compensation, retirement, and employment records has identified $5.6 million in improper FECA payments. The Department is responsible for collecting $1.1 million of this total, but apparently some recipients have remained on FECA rolls for months after field offices had the evidence necessary to terminate FECA benefits.

Can you tell us what steps you are taking to deal with that problem?

Ms. MEISINGER. We have been doing a number of computer matching programs with the States, as well as OPM, to be sure there are no illegal duplicate payments. We have an ongoing investigation program to determine the continuing eligibility status of FECA beneficiaries.

Senator PROXMIRE. I understand the problem is that after the match is made, recipients remain on the rolls.

Ms. MEISINGER. I would like to have Mr. Rogers comment on that, but we do have requirements of due process protection to those employees where a computer match may demonstrate a problem; we can't simply stop the checks. We have to ensure that the error is not on our part or that the computer match is not in error, and that may be the reason. Mr. Rogers?

Mr. ROGERS. That is exactly it. There is a due process requirement built into our regulations. The claimant has to be notified, has to have an opportunity——

Senator PROXMIRE [interposing]. How long does that all take?

Mr. ROGERS. It depends on the case, but it could drag out for several months, Senator.

Senator PROXMIRE. Let me read from the inspector general's report. It says:

> In forwarding the information on the overpayments to its field offices for corrective action, OWCP reiterated our past findings that recovery action has not always been prompt with claimants remaining on OWCP rolls for months.

You apparently had the evidence necessary to terminate benefits and still recipients remained on the rolls for months.

Mr. ROGERS. We track each of these cases where they have been identified. We have dealt either with OPM or our offices in trying to recover the money, but there are Supreme Court decisions we are operating under, the due process we have to follow, and it is lengthy and time consuming.

Senator PROXMIRE. It is not a matter of collecting money, it is a matter of keeping recipients on the rolls so that they continue to receive payments?

Mr. ROGERS. Even if they are on the rolls and some information turns up like this, we can't terminate them without due process. We have an appellate body associated with this program that has time and again overturned us when we have terminated people without going through the due process procedures.

Senator PROXMIRE. Is the inspector general wrong then in his criticism?

Mr. ROGERS. No, sir; we are tracking the cases, and we can give you a report on the recovery process. We know where each one of these is.

Senator PROXMIRE. Would you do that? I would appreciate that information.

FECA REGULATIONS

In his last semiannual report, your inspector general reiterated his support for regulatory action to bring about much-needed reforms in FECA. More specifically he stated, and I quote:

> Minimal progress has been made in publishing much-needed procedural regulations. The regulations would bring about a wide range of needed changes and specifically clarify: one, the responsibilities of the employing agencies; two, the claims filing process; three, responsibilities for returning injured employees to work; and, four, claimants' reporting requirements.

Then to continue the quote:

> A year ago, we reported in our semiannual report that OWCP anticipated publishing the proposed regulations for public comment. We must again report little progress has occurred and strongly urge publication of these regulations as soon as possible.

Can you tell us why you have not moved with more speed in this area and outline your timetable for proceeding with these regulations?

Ms. MEISINGER. We are proceeding with the regulatory package. It is a major overhaul of the regulation structure, so it requires a great deal of review and re-review.

Since publication of that report, I believe the Office of Inspector General has had an opportunity to review our proposal, which is now in departmental clearance for review for legal sufficiency. We hope to have something proposed and in the Federal Register within 45 to 60 days.

MEDICAL FEE SCHEDULES

Senator PROXMIRE. I appreciate that.

The inspector general's report also mentions the publication of medical fee schedule regulations in June of last year. Apparently a 60-day public comment period was extended to October 5. Have those regulations become final?

Ms. MEISINGER. No; they have not. We reopened the comment period for 30 days and it closes on March 4. The comment period was reopened because of a number of changes relating to the definitions of metropolitan statistical areas. This had an impact on our computer program for calculating the fee in particular areas. Because of that change, we were asked to give additional information regarding the impact of that on the fee schedule. We originally proposed to ensure that all parties, including the American Medical Association, had full information upon which to comment. We reopened the comment period after sitting with them and sharing additional information, but we hope to proceed expeditiously. The comment period does close on March 4, 1985.

Senator PROXMIRE. When will these regulations take full effect?

Ms. MEISINGER. That is going to depend on the nature of the comments we receive as a total.

Senator PROXMIRE. Can you give us a ball park estimate?

Ms. MEISINGER. This summer.

REFERRAL OF BLACK LUNG CASES TO ALJ'S

Senator PROXMIRE. An October GAO report estimated that given fiscal year 1984 black lung staffing levels, the Office of Administrative Law Judges could take over 35 years to reduce its backlog. However, your decision to cut this backlog by contracting with retired judges could reduce the backlog to reasonable levels within 9 years. This seems like a very long time to take to resolve this problem. Can't we do any better than that?

Ms. MEISINGER. At the risk of being called bureaucratic, I am going to have to say that is not my jurisdiction. The administrative law judges fall under the responsibility of a different division in the Department. In the Black Lung Program, we have made great strides to get prompt referral of our cases to the administrative law judges.

BLACK LUNG DISABILITY TRUST FUND

Senator PROXMIRE. We will raise this issue later then. Secretary Meisinger, the latest inspector general's semiannual report referred to a contract between the Department of Labor and Electronic Data Systems [EDS] to receive, process and prepare for payment medical bills to be paid from the black lung disability trust fund.

Apparently that contract called for liquidated damages from EDS if, based on an audit, their error rate exceeds 2½ percent of the bills processed since the last audit.

An inspector general's audit has found an error rate exceeding 2½ percent, and that audit report has been issued to you. What steps have you taken to recover liquidated damages, and how much money is involved?

Ms. MEISINGER. We are well aware of the report. We have requested that the audits be done by the inspector general; in fact, paid for them. We are in negotiations with the contractor to recover the liquidated damages. But those negotiations are ongoing.

Mr. ROGERS. We are meeting with them now. It involves trying to determine——

Senator PROXMIRE [interposing]. How much money is involved?

Mr. ROGERS. The estimates range from $1.5 million to $2.5 million, but there are audit questions at this point. What we are doing is going through the questions to see if they can be substantiated one way or the other. The contractor is entitled to present its views on the questions as well.

Senator PROXMIRE. Do you have any idea how long this process will take?

Mr. ROGERS. I would think we would be finished with the process in April.

Senator PROXMIRE. Could you give us a report when the process is finished?

Mr. ROGERS. Yes, sir.

Senator PROXMIRE. Thank you, Madam Secretary. I appreciate it very much.

QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator WEICKER. Thank you very much, Susan. There are other questions which I am going to submit for response to the record also.

[The following questions were not asked at the hearing but were submitted to be answered for the record:]

QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

IMPACT OF REGIONAL OFFICE CONSOLIDATION

Question: How do you expect the New York regional staff to be able to handle the heavy New England workload for enforcement of Wage and Hour and Federal Contract Compliance laws?

Answer: The proposed small regional office consolidation will not affect the level of compliance personnel assigned to enforcement activities in New England. The current investigative staffs will continue to perform their enforcement functions directly under the supervision of Area Office Directors.

It should also be noted that the new regions, formed as a result of the proposed consolidation, would approximate our other regions in terms of staff and workload.

Question: What less drastic alternatives can you suggest to consolidate administrative functions without adversely affecting enforcement of Federal labor laws?

Answer: The consolidation of Regional Office administrative and oversight functions will have no adverse effect on the enforcement of the various Federal labor laws enforced by the Wage and Hour Division and the Executive Order and laws administered by the Office of Federal Contract Compliance Programs (OFCCP). Compliance actions, compliance reviews, and complaint investigations would continue to be conducted under direct supervision of Area Offices. The only impact on the Area Offices, under the Small Region Initiative, would be a change in the Regional Office to which they report.

The Administration's proposal represents the simplest and most efficient approach to maximize resources and reduce overhead costs. Other alternatives would be cumbersome and inefficient and lead to unnecessary organizational layering, with no resulting benefit to the Wage Hour and OFCCP programs or reduction of the Federal budget deficit.

Further, the ever-advancing technologies of the telecommunications and computerized information systems industries, together with electronic mail capabilities, justifies increased spans of control for administration and program management. The Employment Standards Administration (ESA) has such systems in place and has planned for their continued enhancement. We are certain that ESA's enforcement capacity will not be hindered in any way as a result of these administrative changes.

Question: Why not simply have "sub-regional" offices in Boston, Kansas City, and New York?

Answer: The ESA Wage and Hour Division and Office of Federal Contract Compliance Programs have maintained both Regional Offices and one or more Area Offices in each of the ten current Federal regional cities. The Small Region Initiative will preserve the Area Office presence in those locations.

BACKLOG OF FEDERAL EMPLOYEES COMPENSATION CASES

Question: Your budget justification material anticipates a drop in the number of Federal Employee Compensation Act cases being closed, and an increase in the pending case inventory. If the backlog of cases is projected to grow in fiscal year 1986, why are you requesting a reduction of 14 positions and $1,922,000 for administration of workers' compensation programs?

Answer: The 14 positions will be taken out of administrative overhead and will not affect the program's productivity. The increase in pending case inventory is anticipated because of the productive time lost during the implementation period of the Level II ADP system. We anticipate that the initial training schedule and FEC's follow-up training after the installation will absorb staff time. Following the training, there will be lower office productivity that will not be recovered until the staff become fully proficient in the use of the new ADP system and procedures. However, the drop in productivity in FY 1986 will only be temporary and by FY 1987, with the staff fully proficient in the use of the new ADP system, productivity should be higher than it is now and the pending case inventory will drop to a level of 50,000 or less.

Question: How many more claims processing staff would be required to keep the case inventory below the current level of 50,000, instead of rising to 56,000 cases in fiscal 1986?

Answer: The rise to 56,000 in FY 1986 is a temporary aberration resulting from the implementation of the Level II ADP system. In FY 1986, a significant portion of staff time will be taken up by training and the usual "learning curve" phenomenon after the training period. Productivity will increase once the staff becomes fully proficient on the new ADP system, but the results of that increased productivity will probably not be evident until FY 1987. Given that this is a temporary situation, staffing increases are not recommended and may actually be counterproductive because of the additional training (by supervisors and senior staff) that a new employee requires.

BLACK LUNG CASES

Question: Last year you predicted that 90 percent of new Black Lung claims would be handled within 180 days, compared to 70 percent the year before. Have you been able to achieve that objective?

Answer: The quality processing of claims within 180 days has been and continues to be one of the primary objectives of the Black Lung Program. We have set the 90 percent within 180 days as a performance goal, and each year our system has moved closer to that goal. In FY 1984, only three of the eight district offices failed to meet this goal. The first quarter of FY 1985 reveals that only two of the nine district offices (Johnstown is now a full district office receiving new claims.) failed to meet the goal. Both of these offices continue to show improvement.

Question: How much further progress do you realistically expect to achieve in reducing the average time for processing Black Lung claims?

Answer: We are forecasting that the program-wide average of adjudicating 90 percent of the claims filed within 180 days will be achieved in fiscal year 1985.

FAIR LABOR STANDARDS ACT CASES

Question: Your budget indicates that you plan to reduce the level of Fair Labor Standards Act complaints in inventory from 18,000 in fiscal 1985 to 17,000 in fiscal 1986. Since your intake of new cases is not expected to drop, how do you expect to reduce the backlog with no increase in compliance staff?

Answer: As you note, we estimate the complaint inventory at the end of FY 1985 to be 18,000. We estimate that, in FY 1986, we will receive 49,000 complaints under FLSA, and we expect to complete 50,000 complaint actions in that year. By completing 1,000 more complaint actions than the number of complaints received in FY 1986, the complaint inventory at the end of FY 1986 will be reduced by 1,000, to a level of 17,000. I would like to point out, also, that the complaint inventory does not represent a backlog in the traditional sense. This is because each of our compliance officers may have five to ten cases assigned to them and open for investigation at any point in time. While the cases are being actively investigated, they will not be removed from the inventory total until the investigation is completed. Thus, it is likely that as many as 50 percent of the complaints carried in the inventory are being serviced by our compliance officers.

Question: How much will this reduce the average time it takes to handle these complaints?

Answer: This reduction in the inventory will have no significant effect on the average time it takes to handle complaints. Complaints are usually handled within three to four months after receipt and we expect to continue to service them within that timeframe.

EXPANDED COVERAGE OF FAIR LABOR STANDARDS ACT

Question: The Supreme Court ruled last week that 13 million state and local government employees are subject to Federal wage and hour standards. How many more Federal Compliance Officers will you need to adequately enforce the law with respect to this newly covered group of workers?

Answer: We are not in a position at this time to say how many, if any, additional compliance officers are needed to administer the law with respect to State and local workers. Some State and local government employers amended their personnel and payroll practices to come into compliance with the Fair Labor Standards Act (FLSA) prior to the ruling in National League of Cities v. Usery, which the Supreme Court overruled on February 19, in Garcia v. San Antonio Metropolitan Transit Authority. It is likely that many of those agencies are in compliance today. We are presently studying the Supreme Court decision and attempting to assess its impact on our workload. Among the factors which we are considering are the extent to which State and local jurisdictions have wage and hour laws which apply to their workers, whether such standards equal or exceed Federal standards and what remedies are available under those standards.

Question: How soon would you expect to begin receiving complaints from State and local public employees about violations, such as failure to pay overtime?

Answer: On February 20, the Wage and Hour Division alerted its field staff throughout the country that they should take all complaints involving alleged violations of FLSA by State and local government employers. No action is being taken on any complaints received pending further study of the Supreme Court decision by the Solicitor of Labor. As of March 6, few complaints alleging violations of FLSA have been received by the Wage and Hour Division's field offices. However, many State and local government employers have contacted our offices with questions concerning the application of FLSA to their employees.

Question: In the absence of additional resources, how would your agency cope with this expanded responsibility?

Answer: As explained previously, the Department's experience was that most State and local governments had amended their personnel and payroll practices to come into compliance with FLSA prior to the National League of Cities decision. The Department plans to provide information to State and local governments, employer associations and other interested parties to make them aware of their responsibilities under FLSA. As part of our efforts, representatives of the Wage and Hour Division will be available to speak to interested groups, conduct seminars and workshops, and provide pamphlets and other literature. We fully expect that most, if not all, State and local jurisdictions will come into compliance with the Federal law when they have been fully apprised of their obligations.

Question: What immediate steps do you plan to implement expanded coverage of the law?

Answer: The Supreme Court decision in Garcia v. San Antonio Metropolitan Transit Authority is currently being reviewed by the Department. We are in the process of preparing publications highlighting the basic provisions of FLSA as they apply to State and local government employees and taking other steps to provide information to all interested parties. We intend to work closely with State and local officials and various associations of governmental officials and agencies to ensure that they are fully informed of their obligations under the law. The Wage and Hour field staff have been instructed to accept complaints from State and local government workers.

Question: What is being done to inform State and local workers about the impact of the court decision?

Answer: A Department of Labor publication highlighting the basic provisions of FLSA, as they apply to State and local government employers, is being prepared. Also, a notice to employees that they are subject to minimum wage and overtime pay is already available for posting by State and local government employers. Furthermore, the staff of the Wage and Hour Division is responding to questions raised by State and local government officials concerning FLSA compliance and plans are being developed for a series of information seminars.

DUPLICATION BETWEEN ANTI-DISCRIMINATION AGENCIES

Question: The Heritage Foundation has recommended elimination of the Office of Federal Contract Compliance Programs (OFCCP), alleging there is almost total overlap of its functions and the Equal Employment Opportunity Commission (EEOC). What is your view of merging these two agencies?

Answer: The FY 1986 Budget does not contemplate merging EEOC and OFCCP, and we have no plans to do so. While there may be some areas where functions could converge and duplication occur, EEOC is essentially a complaint resolution agency while OFCCP's functions involve the systematic monitoring of companies that do business with the Federal government. OFCCP has a primary obligation to ensure that contractors do not discriminate in their employment policies and practices; it also encourages the development of affirmative action techniques that can increase the employment and promotion opportunities of women and minorities.

Question: Do you agree that the staff of these two agencies perform almost identical screening functions seeking out instances of employment discrimination?

Answer: Recognizing the possibility of some duplication, EEOC and OFCCP have taken steps to reduce and prevent any instances in which that might occur. Since many complainants do choose to file their complaints with both agencies, OFCCP and EEOC have concluded a Memorandum of Understanding under which OFCCP refers to EEOC all individual complaints of discrimination based on race, color, sex, religion or national origin. This procedure ensures that the functions of the two agencies do not overlap and that the resources of the two agencies do not become involved in duplication of effort.

Question: Is there unnecessary duplication in the forms contractors are required to file with both agencies?

Answer: There is no duplication in the forms contractors are required to file with OFCCP and EEOC. For their nonconstruction employees, contractors are required to file annually one Equal Employment Opportunity Information Report with a Joint Reporting Committee for use by both agencies.

Contractors in designated areas are required to report construction employment information only to OFCCP.

FAIR LABOR STANDARDS ACT

Question: The Advisory Committee on Sheltered Workshops was reestablished in 1982. Since that time, the Advisory Committee has been very active in reviewing the special minimum wage regulations pertaining to handicapped workers in sheltered workshops. This advisory committee is authorized through Title 29, Part 525 of the Code of Federal Regulations. Will the Administration initiate or support legislation that would statutorily mandate the continued existence of the advisory committee on sheltered workshops?

Answer: We have found the Advisory Committee on Sheltered Workshops to be active and effective in providing guidance to the

Department on the employment of handicapped individuals with impaired productive ability at special minimum wages. Currently, the Advisory Committee is a Departmental committee whose members are appointed by the Secretary. The Committee's charter must be renewed biennially for its continuance. The Department strongly recommended renewal in 1983 and plans to do so again this year. At the present time, the Administration has no plans to initiate legislation to establish a statutory advisory committee on sheltered workshops. We believe that the administrative framework within which the committee is presently operating is fully adequate in meeting the needs of the Department in this area.

Question: Is it true that the Department of Labor is not enforcing the Fair Labor Standards Act for clients who perform work for social service programs at Salvation Army Centers? What guarantees will you make to ensure that these individuals are paid fair and equitable wages given that they are indeed covered by FLSA?

Answer: There has been some disagreement between the Department and the Salvation Army as to the application of the Fair Labor Standards Act to the handicapped individuals working in their Adult Rehabilitation Centers. The Salvation Army contends that all of these individuals are "beneficiaries" rather than employees. The Department believes that each case must be separately analyzed in order to make an appropriate determination for the specific individuals. In order to resolve this issue, the Department, through its Advisory Committee on Sheltered Workshops, has initiated discussions with Salvation Army representatives for the purpose of reaching some understanding on how the law applies to these handicapped individuals. However, no understanding has yet been reached.

HIGH TURNOVER OF COMPLIANCE OFFICER STAFF

Question: During last year's hearings you indicated that a 10 percent turnover of compliance officer staff resulted in lower productivity for the Wage and Hour Standards program while 100 replacement staff were being trained. Was this an unexpectedly high level of staff turnover?

Answer: The turnover rate in FY 1983 was fairly consistent with that of previous years but there was a larger number of compliance officer vacancies than usual as a result of our inability to quickly fill those vacancies which occurred. This was primarily due to the withdrawal of the PACE examination which had been our primary source of hiring. Alternative avenues of hiring qualified compliance officers were being explored and have now been implemented. Our newly hired compliance officers are being trained as quickly as possible after reporting for duty and we are confident they will be fully productive in a normal period of time.

As we also indicated last year, another factor impacting reported FY 1983 productivity levels was the implementation of a new automated management information system. Prior to the automated system, much of the data were collected manually and there were some duplicated counts. The current automated system has eliminated deficiencies of the manual system and provides more accurate measures of program performance.

Question: What is your current attrition rate for compliance officer positions?

Answer: The current rate of attrition in compliance officer positions remains at approximately the 10 percent level.

Question: What reasons do compliance officers give for leaving the agency?

Answer: Employees leave Wage and Hour staff for the same variety of reasons workers leave any business. For example, compliance officers leaving the agency have indicated that they were able to gain other employment which was more suited to their own personal career ambitions while others have indicated they could not adapt to law enforcement work. Also, many of the employees who leave do so because they become eligible for retirement.

Question: What steps can be taken to encourage trained compliance officers to remain with the agency?

Answer: One of the characteristics of Wage and Hour is its cadre of loyal, long-term compliance officers. A ten percent rate of attrition is not high in an organization of this size. We believe that our training programs, incentive awards programs, the quality of managerial supervision, and the caliber of people in the organization, encourage compliance officers to remain with Wage and Hour. Our experience is that compliance officers who stay beyond the training period are likely to remain with Wage and Hour for many years.

COMPUTERS AND THE DAVIS-BACON ACT

Question: What is the current status of the effort by the Department of Labor to computerize the complex wage determination processes required under the Davis-Bacon Act?

Answer: Work is proceeding on the development of an automated tracking system to help manage, sort, route, and track requests for wage determinations and certain related actions under both the Davis-Bacon and Service Contract Acts. This system will also track the status of Davis-Bacon wage surveys from the time they are initially planned to their completion. Furthermore, the system will provide management access to daily information on workloads allowing existing resources to be readily reallocated to improve productivity. This system is scheduled to become operational during the summer of 1985. Future development work will expand the tracking system to other subject areas; provide automated wage survey management and data calculation; and eventually provide for greater ADP applications to the determinations process. In addition, a computerized system has been put in place to streamline the development of universe data required for Davis-Bacon wage surveys. This system is being operated, under contract to the Wage and Hour Division, by the F.W. Dodge Division and the Construction Resources Analysis program of the University of Tennessee.

Question: Please supply, for the record, an accounting of all costs involved in the several attempts to computerize the Davis-Bacon wage determination processes?

Answer: The Wage and Hour Division does not have any records readily available that account for expenditures of past attempts to computerize the Davis-Bacon wage determination process. The accounting records for the 1970s have been archived, and, therefore, are not readily available. To get the data needed to determine the costs would involve extensive research of the archived records. However, since the start of FY 1984, we have been engaged in a new effort to computerize the Davis-Bacon wage determination process. In that start-up year, we began by letting a small contract with Construction Resources Analysis of the University of Tennessee to streamline the development of universe data required for Davis-Bacon wage surveys. The cost was $9,800. In FY 1985, we were able to expand this successful effort and granted Construction Resources Analysis a continued contract for $136,400. We also devoted funds to the development of an automated tracking system to help manage, sort, route, and track requests for wage determinations and certain related actions under both the Davis-Bacon and Service Contract Acts. Our estimate is that this automated tracking system will cost $130,000.

Question: Has a near decade of activity in this area by the Department been a wasted effort--and a waste of dollars?

Answer: No. Current efforts, built on past experience, show great promise. Although the present development approach (automating components of the wage determination program one by one rather than all at once) will take longer than a massive effort to automate all facets of the wage determinations program at once, it provides a more manageable way to deal with problems as they occur in the development process, thus creating a much greater assurance of a successful result.

Question: Might an effective computerization of the wage rate calculation data eliminate some of the complaints about the equity of the administration of the Davis-Bacon Act?

Answer: We believe so. A number of such complaints arise from the lack of recent wage surveys in many areas and/or the untimely reflection of wage rate information in wage determinations. At a minimum, a successful automation effort should significantly reduce complaints by increasing the number of surveys performed each year and reducing the time lag in updating wage rates.

Question: Why hasn't this program gone forward more expeditiously?

Answer: The automation of the wage determination process has been divided into subprocesses. As each subprocess is successfully implemented, it will be integrated into the existing system. Such an approach allows greater control over the automation process, provides a more manageable way to deal with any problems as they occur, and creates greater assurance of a successful program result.

LONGSHORE AND HARBOR WORKERS' COMPENSATION

Question: The 1984 Amendments to the Longshore and Harbor Workers' Compensation Act made numerous substantial changes in this system for regulating workers' compensation for much of the maritime industry. Important among these changes were requirements to establish systems to control fraud and abuse by medical providers and others. What steps have you taken to implement the 1984 Longshore Amendments with respect to controlling fraud and abuse?

Answer: Public Law 98-426 established broad guidelines for controlling fraud and abuse by medical care providers and others. The Act set out specific grounds by which a physician, other medical care provider, or a claimant representative could be barred from participation in the program. The Department was given the responsibility for developing procedures for implementing the statute, which became effective 90 days after enactment. Detailed interim final regulations were developed and published in the Federal Register within 90 days. These interim final procedures became effective December 27, 1984, and provide specific instructions for handling instances of alleged fraud and abuse.

The interim final procedures provide for an investigation by the appropriate Office of Workers' Compensation Programs (OWCP) deputy commissioner, the opportunity for a hearing before an administrative law judge who will issue a recommended decision based on the evidence produced during the hearing, and a final administrative decision by the Deputy Under Secretary for Employment Standards Administration. The Act provides for judicial review of a decision to disqualify a medical provider by the appropriate United States Court of Appeals.

Comments were requested on these regulations, and at the conclusion of the comment period on March 26, 1985 they will be analyzed. Final regulations will then be published by October 1, 1985.

The Department had already been monitoring the program for instances of fraud and abuse. The new law and regulations provide added enforcement authority which will enable the Department to continue its control of these areas and increase its effectiveness.

CHILD AGRICULTURAL WORKERS

Question: What is the current status of the provisions, adopted as part of the Fair Labor Standards Act Amendments of 1977 which allowed for the use of child workers (aged 10 and 11 years) in hand harvest work in agriculture?

Answer: Currently the Department issues waivers allowing the employment of 10 and 11 year old children as hand harvesters only to growers who meet all of the specific statutory requirements and the Secretary's conditions set forth in the Amendments and regulations. With regard to the pesticide requirement, an applicant must either submit a statement that no pesticides or other chemicals will be used on the crop to be hand harvested or submit data upon which the Secretary or Secretary's designee may establish safe field reentry times for 10 and 11 year olds. Cooperative arrangements have been made with the Environmental Protection Agency to provide technical assistance to the Department in evaluating waiver applications. No waivers have been issued under these procedures since June 1980, when one was granted in the State of Washington, for harvesting a crop where no pesticides or other chemicals were involved.

Question: In the wake of enactment of the 1977 FLSA Amendments, the Department projected studies of just what impact chemicals and pesticides used in the fields might have upon such child workers. Were those studies pursued? What, in summary, were their findings?

Answer: In 1978 and 1979, DOL contracted with Clements Associates, Inc., of Washington, D.C., a scientific consulting firm, to review data on pesticides and other chemicals used by growers affected by the waiver procedures. Clements submitted a series of reports on the pesticides used on strawberries and potatoes (the short season crops traditionally harvested in the Pacific Northwest and Maine by children under 12 years of age). As Clements completed each report, the Department published recommended minimum entry times (METs) in the Federal Register for each of the pesticides and chemicals which, if followed, would not have an adverse effect on the health or well-being of 10 and 11-year-old hand harvesters.

In a 1980 decision, the U.S. Court of Appeals for the District of Columbia in National Association of Farmworker Organizations, Inc. v. Marshall, gave a very strict reading to the pesticide evaluation requirement, basically holding that there must be proof of "absolute safety" or "zero risk" before the Department could issue a waiver.

Because of this decision, the previous listings of METs for pesticides and chemicals were republished in the Federal Register in proposed form seeking information which the public might have on the subject. The comment period closed and virtually no scientific data was received other than that already reviewed by Clements.

In March 1980, the Department entered into an agreement with the Environmental Protection Agency (EPA) to conduct a five-year study of the effects of pesticide exposure on the health of youth under 16 years of age employed in agriculture, including those 10 and 11 years of age affected by the waiver provision.

Studies conducted under the agreement have been extensive and complex. A framework for understanding the effects of pesticides on young workers has been established. This framework will provide a baseline and reference point upon which to expand knowledge related to this important problem, but much remains to be learned. The Department is no longer providing funds to EPA but is continuing its working relationship with that agency in order to receive advisory information on specific pesticides, upon request, so that we may respond to waiver requests.

THE DAVIS-BACON ACT

Question: The Davis-Bacon Act, which requires the payment of locally prevailing wages to persons employed in Federally-assisted construction work has been strongly criticized by the General Accounting Office, the Grace Commission, and the Heritage Foundation. It has been charged that the Act is inflationary, impossible to administer equitably and unnecessary given the enactment of the Fair Labor Standards Act. Defenders of the Statute (notably organized labor) have argued that the Act has a continuing importance as a stabilizing influence within the industry and as a protection against fly-by-night contractors. Does the Department of Labor believe that the Davis-Bacon Act is inflationary and that a significant saving could be realized through its repeal? If savings may result, how substantial would they be?

Answer: We believe that the inflationary impact of the Davis-Bacon Act has been significantly reduced by the regulatory revisions promulgated by the Department in 1984 and sustained in most respects by the Federal courts.

Question: Does the Department of Labor believe that the Davis-Bacon Act continues to serve a useful purpose? Please specify.

Answer: We believe that our regulatory changes will ensure that the wage determinations issued more accurately reflect local wage rates and practices and will result in a more efficient cost-effective implementation of the Act.

Question: Will the Department oppose attempts to repeal the Davis-Bacon Act?

Answer: The Administration has not sought repeal.

MIGRANT AND SEASONAL AGRICULTURAL WORKERS PROTECTION ACT

Question: What changes have come about within the Department of Labor--in terms of personnel and cost requirements, and with respect to the protection of migrant and seasonal agricultural workers--in the wake of enactment of the Migrant and Seasonal Agricultural Workers Protection Act?

Answer: The Department has not changed the level of resources devoted to migrant and seasonal agricultural workers as a result of the enactment of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA). The same level of resources which were previously committed to the enforcement of the Farm Labor Contractor Registration Act (FLCRA) have been allocated to enforcement of MSPA.

While maintaining the same budget and personnel levels, we have been able to increase the number of compliance actions. In FY 1984, the Department completed 5,273 compliance actions under MSPA, including 967 safety and health inspections of housing provided to migrant workers. This was about 1,000 more compliance actions than were completed the previous year.

Question: The old Farm Labor Contractor Registration Act, which was repealed in 1982, had been subject to extended litigation. For the record, can you provide us with a comparison of dollar costs and personnel requirements with respect to litigation and related enforcement between the old and new laws?

Answer: We have no precise data on litigation costs and related personnel requirements. However, MSPA has eliminated the uncertainty concerning which employers are covered and which employees are protected, which had resulted in considerable litigation under the Farm Labor Contractor Registration Act. Since the effective date of MSPA, we have had virtually no litigation on threshold issues regarding the Act's coverage. Instead, our litigation resources have been utilized in actions brought to ensure that the Act's labor standards protections are received by agricultural workers. In addition, during the first year of implementation of MSPA, we conducted a massive educational effort which greatly increased understanding and public acceptance of the new Act. This has greatly increased the level of voluntary compliance and reduced the need for litigation.

Question: Has there been a documentable saving?

Answer: Yes, less resources are required for the administration of the registration provisions of MSPA. Under FLCRA, approximately 18,000 persons were required to register annually as farm labor contractors. MSPA has reduced the number of persons required to be registered to approximately 12,000. In addition, many registrants are able to qualify for two-year registration certificates. As a result of this simplification, there is less paper work burden on the public and more of the Department's resources are available for enforcement.

BLACK LUNG BENEFITS

Question: The fiscal 1986 budget estimates new Black Lung claims at nearly 14,000 annually. In addition, at the end of fiscal 1984, there was a backlog of claims on appeal at all levels estimated to be some 35,000. However, the Black Lung caseload (those in payment status) is shown as declining by 2,300 between 1984 and 1986. How can your FY 1986 budget for the Black Lung Disability Trust Fund be predicated on a reduction in the number of beneficiaries when you are expecting a substantial number of new claims and have a very significant backlog on appeal?

Answer: When formulating the FY 1986 budget for the Black Lung Disability Trust Fund, all factors that would increase, as well as decrease the size of the Trust Fund beneficiary roll were considered. When projecting the numerous occurrences that affect the beneficiary roll over a two year period estimates are developed such as the death rates of beneficiaries, timeliness and results of Administrative Law Judges (ALJ) and Benefits Review Board (BRB) decisions, and the approval rate of new claims. The general categories below reflect how various occurrences within each is estimated to affect the roll over a two year period.

Number of new claims approved	+1,000
Number of previously denied claims reversed by administrative reconsideration, ALJ, or BRB	+2,400
Current Trust Fund interim pay cases upheld by ALJ or BRB forcing Responsible Operator to assume payment, or denied by ALJ or BRB resulting in the termination of interim payments	-3,000
Number of Trust Fund beneficiaries deceased, remarried, or no longer eligible	-2,700
Total Change	-2,300

Question: Are there any changes in eligibility rules contemplated that might affect the number of Black Lung beneficiaries?

Answer: There are no changes in eligibility rules contemplated at the present time.

FINANCING THE BLACK LUNG DISABILITY TRUST FUND

Question: In its fiscal 1986 budget, the Administration is proposing a substantial increase in the excise tax on coal used to finance the Black Lung Disability Trust Fund. It estimates that its proposed increase would end the need for borrowing from the Federal Treasury in a few years, with the Trust Fund able to repay previous loans after that. The present excise tax is based on coal tonnage mined and stands at 50 cents a ton for surface-mined coal and one dollar a ton for underground coal--not to exceed four percent of the price at which coal is sold. The Black Lung Disability Trust Fund pays benefits for some 90,000 disabled coal miners and survivors. In recent years, approximately 40 percent of its costs have been financed with loans from the Federal Treasury (eventually repayable with interest). The remaining 60 percent has been financed by the excise tax on coal. Have you taken into account the effects on coal production that your proposed increase in the excise tax would have?

Answer: The Department is developing a proposal which is designed to halt further borrowing by the Black Lung Disability Trust Fund from the U.S. Treasury as soon as possible. Certain economic assumptions have been considered, including anticipated coal production. The proposal will include an increase in the excise tax on coal sufficient to permit the repayment of past loans, with interest, within a reasonable period of time. After that objective is reached, the tax would be lowered to a level sufficient to maintain the future solvency of the Trust Fund. Given the relatively inelastic demand for coal over the short term and its long range favorable outlook vis-a-vis petroleum as an energy source, we believe that this tax increase would not significantly impact coal sales and tax revenues. It is important to emphasize, however, that the Black Lung Disability Trust Fund currently has a debt of over $2.0 billion, which will rapidly increase if corrective action is not taken quickly.

Question: How much are you proposing to increase the tax?

Answer: The proposal is not yet finalized. In its current version, it will stop further borrowing before the end of FY 1988 and complete repayment of all indebtedness (currently $2.5 billion) before the end of the century, assuming that the current projections about coal production, the price of coal, interest rates, benefit levels, medical costs and beneficiaries are essentially correct.

Various approaches to the tax rate are under review, and consultation with industry and labor representatives is also being conducted. We expect to send a specific proposal to the Congress in the next few weeks.

Question: Could not the increase "backfire", and, with less coal production, actually reduce revenues?

Answer: No, we do not believe that the tax increase will backfire by reducing coal sales and ultimately adversely affect Trust Fund revenues. Given the relatively inelastic demand for coal over the short term and its long range favorable outlook vis-a-vis petroleum as an energy source, we believe that this tax increase would not significantly impact coal sales and tax revenues. It is important to emphasize, however, that the Black Lung Disability Trust Fund currently has a debt of over $2.0 billion, which will rapidly increase if corrective action is not taken quickly.

HISTORICAL ANALYSIS OF MIGRANT AND SEASONAL AGRICULTURAL WORKERS ACT

Question: Has the Department developed a systematic, concise, and readily available history of the origins and evolution of the Migrant and Seasonal Agricultural Workers Protection Act? Does the Department plan to develop and maintain such an ongoing historical analysis?

Answer: The Department has maintained copies of all drafts of MSPA and its regulations, as well as copies of comments received from interested parties. It also required its field organization to submit reports of all media contacts, speeches, public inquiries and other educational efforts occurring in connection with the implementation of the Act. The Department does not have further plans at this time to chronicle the history of the Act nor to maintain any ongoing historical analysis. However, the Annual Report of the Department of Labor contains a report of the Department's accomplishments under MSPA for each year since enactment.

QUESTIONS SUBMITTED BY SENATOR WILLIAM PROXMIRE

WORKERS COMPENSATION--WORKLOAD

Question: In looking at your FECA workload statistics table on page ESA-23 of your justifications and comparing that table with last year's estimates, I note that 11,325 more injuries were reported and 1,268 more claims received in fiscal year 1984 than you projected last year at this time. Your estimates were about six percent too low. You have revised your 1985 estimates upward accordingly. How do you account for this increase?

Answer: Workloads did not increase significantly between FY 1983 and FY 1984, but revised estimates for FY 1984 assumed that workloads would continue to decline as they had since FY 1980. Injuries reported peaked at nearly 217,000 in FY 1980 and dropped an average of nearly 17,000 a year to the FY 1983 count of 166,116. Continuation of Pay (COP) cases experienced a similar drop between FY 1980 and FY 1983 from 105,000 to 71,771, while claims received dropped from nearly 31,000 in FY 1979 to 20,379 in FY 1983.

When the FY 1984 budget was developed, it was anticipated that in the FY 1982-1983 timeframe the workload decreases would slow or stop and the program would be left with fairly stable incoming workloads for the near future. Original FY 1984 budget projections were for 190,000 injuries reported, 82,000 COP cases, and 25,000 claims received. When FY 1983 actuals indicated that workloads were still declining, the estimates for FY 1984 were revised downward. The reductions in incoming workloads, however, ended in FY 1984 and the workloads were virtually the same as FY 1983 workloads. Injuries reported, COP cases, and claims received increased by 1.3 percent, 1.8 percent, and 3.9 percent, respectively, over FY 1983 levels. This resulted in workload estimates that were approximately five percent too low. We are forecasting that incoming workloads should remain relatively stable for at least the next two years.

Question: Your periodic roll review program was not as effective in 1984 as in past years. You saved over $22 million through roll reviews in fiscal year 1983 and estimated savings of $20 million in 1984. Your actual savings in 1984, were only $17.5 million and you reviewed about 3,000 less cases than you initially planned to review. What happened?

Answer: Program performance and production goals are set prior to the start of each fiscal year for each of the Federal Employees' Compensation district offices. In the area of periodic roll reviews, the district office is required to review annually all cases that have been on the periodic roll for at least one year. The goal for periodic roll review is set at the number of periodic roll cases in a district office. Although this varies slightly from month to month, it remains relatively constant over the course of a year. The goal is an ambitious goal, since not all of the periodic roll cases in a district office have been on the roll for more than one year. Nonetheless, it was exceeded in each of the four years prior to FY 1984.

Last year, nearly 93 percent of the periodic roll cases were reviewed (based on the end-of-the-year periodic roll case count), and most of the cases on the rolls more than one year were reviewed.

While the dollar reductions were lower overall, the average saving per case removed or adjusted was nearly 16 percent higher in FY 1984 than in FY 1983. The effectiveness of periodic roll reviews is indicated by the following data. The number of periodic roll cases topped 49,000 in early FY 1982 and would have been over 52,000 currently if the growth rate at that time had continued. However, the number of cases has stabilized between 45,000 and 46,000 cases, and the growth rate in disability costs has been slowed significantly.

QUESTION SUBMITTED BY SENATOR LAWTON CHILES

BLACK LUNG BENEFITS

Question: The administration proposes freezing Black Lung benefits for several years. The method proposed seems more severe than a flat freeze. I understand the proposal would "unhook" Black Lung benefits from its tie to the GS-2 level and permit no increase until after the five percent pay cut is offset in several years. Why this type of "freeze" for Black Lung beneficiaries?

Answer: The proposed method is not more severe than a flat freeze since continuing to tie Black Lung benefits to the GS-2 level would result in reduced benefits. A decrease in Black Lung benefits would have to be offset by an increase in Supplemental Security

Income (SSI) and Social Security Administration (SSA) disability benefits to many of these beneficiaries. This shift in funding would place an even greater burden on the general revenue which is funded by taxes. The burden of responsibility for payment of Black Lung benefits would remain with the Trust Fund. Black Lung benefits would be frozen until the five percent proposed Federal pay cut is offset by future increases (January 1988 would be the next increase).

The Administration believes that unhooking the tie to the GS-2 level is the most logical approach to meeting the needs of the beneficiary population and also avoiding additional costs to the Social Security Administration.

BUREAU OF LABOR STATISTICS

STATEMENT OF JANET L. NORWOOD, COMMISSIONER OF LABOR STATISTICS

ACCOMPANIED BY:

WILLIAM G. BARRON, DEPUTY COMMISSIONER FOR ADMINISTRATION AND INTERNAL OPERATIONS

THOMAS J. PLEWES, ASSOCIATE COMMISSIONER FOR EMPLOYMENT AND UNEMPLOYMENT STATISTICS

PREPARED STATEMENT

Senator WEICKER. Our final witness this morning is Janet Norwood, the Commissioner of Labor Statistics. Janet, would you please introduce your associates and your full statement will be placed in the record, and proceed any way you wish.

[The statement follows:]

STATEMENT OF DR. JANET L. NORWOOD

I appreciate this opportunity to appear before you to present the Bureau of Labor Statistics [BLS] appropriations request for fiscal year 1986 as well as the rescission request for fiscal year 1985.

The revised fiscal year 1985 request before this committee includes the rescission of $5 million appropriated for the development of an annual report on permanent layoffs and plant closings. It also includes a rescission of nearly $800,000 of fiscal year 1985 amounts in the congressionally specified areas of travel, printing, and consultants under section 2901 of the Deficit Reduction Act of Fiscal Year 1984.

The full request for fiscal year 1986 is for $184.6 million. These resources include $148.3 million in general revenue funds, and $36.3 million from the unemployment insurance trust fund. I would like to discuss each of these funding areas separately.

General funds: The Bureau requests an appropriation of $148.3 million in general revenue funds, about $0.5 million less than the revised fiscal year 1985 appropriation level that I have just outlined. These fiscal year 1986 resources provide for the continuation of: the Bureau's core statistical programs, and the multiyear revision of the Consumer Price Indiex [CPI] into its third year.

As you know, the administration decided to freeze fiscal year 1986 domestic programs at the revised fiscal year 1985 appropriated level and reduce administrative service and overhead costs 10 percent. In addition, savings made possible by identified management initiatives have been taken. The decision to reduce Federal pay by 5 percent also reduces our appropriation without reducing the level of resources to carry out our program.

For BLS, an exception has been made to a general rule of a program freeze at 1985 levels. A $3 million increase has been requested for the next phase of the vitally important revision of the Consumer Price Index.

The management initiative savings reflect actions being taken throughout the Department and across the Government to achieve economies in overhead and support service operations without affecting program operations. For BLS, these initiatives involve:

Elimination of regional office status for BLS offices in Boston and Kansas City.

Reduction and subsequent transfer of some administrative services, including payroll and personnel, to a central National Capital Service Center.

Of course, a freeze in program dollars, and a 10-percent reduction in funds for overhead and administrative services, while costs are expected to rise somewhat, require us to reduce operations in some areas in order to assure continuation of core statistical programs. We have made reductions which we believe will have the least effect on our essential operations. In the executive direction area we have:

Reduced staff in regional and Washington information service units.

Made reductions in publications and other Bureau-wide support and administrative activities. These executive direction reductions are described in greater detail in our written justification and related resource tables.

In the program area, we have: Reduced contracts with the Bureau of the Census for the current population survey, and the consumer expenditure survey below the 1985 level.

Maintained cooperative agreements with the State agencies at the 1985 dollar level, while reducing their activities as costs rise.

Maintained the service sector expansion program at the level of the $1 million appropriated for 1985. The 1985 program is partially financed by carryover from the 1984 appropriation.

The details of these reductions are also covered in greater detail in the Bureau's narrative.

This committee is well aware of the broad range of the Bureau's well known and important economic measures on employment, unemployment, prices, wages, industrial relations, productivity, and economic growth. These data are inextricably interwoven with public and private decisionmaking in the Nation and affect significantly both Federal outlays and receipts as well as personal incomes and business costs. The protection of these widely used series that underpin the development of national economic and social policy must be the paramount consideration in any change in the Bureau's activities. In planning these various reductions, therefore, the Bureau has plans to avoid serious disturbance to the major macroeconomic indicators. We expect to work out the required organizational changes, and the diminution in informational services, with a minimum effect on our data production and dissemination activities.

Trust funds: Congress provided that tax receipts generated by FUTA be used to finance the operations of the State Employment Services [ES] established by the Wagner-Peyser Act and the administration of the unemployment insurance system in each State. These funds have also been used to finance State operations of four labor market statistical programs for which control was divided between the Bureau and the Employment and Training Administration [ETA]. In response to a recent departmental decision to centralize both technical and managerial control of these programs in BLS, Congress approved the transfer of $20.4 million in the Bureau's fiscal year 1984 and fiscal year 1985 requests for three of the four programs. Anticipated State cost increases of $1 million for these three programs will be accommodated in fiscal year 1986 through reductions in the output that the cooperative agreements will provide.

In fiscal year 1986, we propose to transfer the fourth program, the ES-202, employment and wages, thus completing the transfer of all the national employment statistical programs from ETA to the Bureau. The revised fiscal year 1985 and the fiscal year 1986 requests, therefore, include these resources, $13.7 million, for the ES-202. The fiscal year 1986 request has cost increases of $900,000 and a one-time increase of $1.4 million needed to provide resources to complete the updating of the industry code assignments for establishments reporting in the Employment and Wages Program, a necessary quality maintenance procedure that has already been completed in the other LMI programs operated by the States.

This final action on the transfer of U.S. trust fund resources from ETA to BLS represents the completion of our objective to centralize the control of these national statistical programs in BLS.

In conclusion, Mr. Chairman, I want to tell you that, as the Bureau enters its second century of operations, it is aware of the challenges ahead and with this budget stands ready to meet the demands for high quality data.

I hope these remarks are helpful in outlining the Bureau's present programs and future plans. I would be glad to answer any questions that you may have on the budget requests before you.

INTRODUCTION OF ASSOCIATES

Ms. NORWOOD. Thank you very much, Mr. Chairman. I am accompanied by Thomas Plewes on my left who is our Associate Commissioner for Employment and Unemployment Statistics and by William Barron on my right who is our Deputy Commissioner for Administration and Internal Operations.

I think it might be best if I just very briefly summarized the budget as I see it. It is a lean budget, as it ought to be in this period of time when we are so concerned about reducing deficits.

There is a transfer of trust funds for the Insured Employment and Wages Program, that had formerly been in the ETA account, to the Bureau of Labor Statistics. This completes the transfer of trust funds for the Federal/State statistical programs to our jurisdiction.

That trust fund transfer includes a one-time increase, for refiling of the standard industrial classification. That is something that really should have been done a couple of years ago, and was done in the other programs that we have responsibility for. It is a one-time increase, and it is tremendously important.

I would point out that the Insured Employment and Wages Program is the base for a good part of our National Accounts System as well as the benchmark for our monthly employment program.

The remainder of our budget, the salaries and expenses, shows a net decline of about $500,000. That decline is made up of some program increases and decreases.

The most important part of the budget is a program increase for the continued work on the revision of the Consumer Price Index. We enter fiscal year 1986 with rather massive work required in each of our field offices to implement the basic sampling work, both in housing and in the initiation of new cities, and some new items and outlets for the CPI. So that work will continue.

It is an extremely important initiative. This, and the rest of the budget, is counter-balanced by a variety of decreases. Basically, there is a rescission request for the PLMPC report which had been included in our 1985 appropriation. This is a program that is, I think, a useful one, but it is clearly a lower priority than the other programs in our budget.

There is a reduction by about half for the work on services, and there is an absorption of certain mandatories, particularly with State salaries and census costs, that will result in some small adjustments in those programs.

There is an across-the-board cut in executive direction and some printing cuts that result from section 2901 of the Deficit Reduction Act of 1984. These cuts will affect the dissemination of information by the Bureau of Labor Statistics. There will be a reduction in the information services in our field offices and a reduction in printing that will affect some of our publications and, in particular, the Monthly Labor Review

[MLR]. We are looking now at making the MLR a quarterly, rather than a monthly, publication.

So it is a lean budget. I think it is consistent with the national need to reduce Government expenditures. Nevertheless, Mr. Chairman, I think I can say to you that in this 101st year of the Bureau of Labor Statistics, we are moving ahead to protect the basic core of national data that is necessary for economic policy.

CENTRALIZATION OF PERSONNEL FUNCTIONS

Senator WEICKER. There has been talk both in the media and also, indeed, during yesterday's hearings relative to the undermining of the agency's independence by taking away control of key personnel functions, including promotions and recruitment. Are you satisfied the Labor Department plan to centralize personnel functions will not damage your agency's reputation for producing politically biased statistics and are you being given the opportunity to work out the details of the plan to your satisfaction so that the political independence of the Bureau is not threatened?

Ms. NORWOOD. Mr. Chairman, the President's budget provides for a reduction of eight positions and about $241,000 for personnel and for accounting. I support that reduction. It also provides for a centralization of administrative functions such as payroll processing which I have no problem with at all. However, I have had discussions with Under Secretary Ford about the personnel issue. My major concern, and it is a genuine concern, is that the institutional aspect of this issue must be recognized and observed. This is not a matter of personalities at all. No one has been more supportive of the integrity and independence of the Bureau of Labor Statistics than Under Secretary Ford and Secretary Donovan.

I have no concern about their intent. My concern is that neither they nor I are going to be here for the next 100 years, and I want to be sure that there are adequate safeguards for the management of personnel. We are trying to work that out.

Senator WEICKER. At the time a final plan is arrived at, would you be good enough to communicate with this committee as to your critique of the final plan?

Ms. NORWOOD. Yes, sir.

Senator WEICKER. I think that is rather important. I gather, so far as it relates to my question about the integrity of the Bureau, you are not worried about the cut in personnel; you are not worried about certain functions being centralized? What is it that you are concerned with?

Ms. NORWOOD. I am concerned about the management of our personnel, about recruitment, about the requirements for positions, about position management, about employee relations, about promotions, and about the selection of our professional staff, in particular.

SERVICE SECTOR EXPANSION

Senator WEICKER. Congress has appropriated $1.8 million and 40 positions for expansion of data collection activities in certain sectors of the economy. What is the rationale for proposing this be cut in half in fiscal 1986, and how many of the 40 positions approved by Congress have actually been filled?

Ms. NORWOOD. Approximately 15 of the positions are currently filled, and what we have done is try to look at the whole services area to see how we could do the work as efficiently and effectively as possible. This is an area that is very, very large. To develop price indexes, for example, for all of the service industries would take a lot more than $2 million.

What we are trying to do with this reduced budget is to develop information in several important areas—such as in productivity, and in the wage area, where one of the most critical issues today is the question of whether the increased employment in the services industry is really producing a situation where people who are losing high-paying jobs are going to lower-paying jobs in the services area. I think we need to have information in order to look at these areas.

We will, under this plan, do continued work in the price area, which is extraordinarily difficult because one first has to define output. We will focus great attention on reweighting data that are already in existence to provide as much output as possible, as rapidly as possible.

Senator WEICKER. I think it was for that reason—for many of the reasons you mentioned—that Senator Inouye put in this amendment, and as he indicated in the amendment, this was supposed to be accomplished in two steps—20 positions and startup funds supplemental at the end of the fiscal 1984 and 20 other positions in the fiscal 1985 bill. Am I correct in saying you have 20 on board now?

Ms. NORWOOD. It will be stabilized at that level, according to the fiscal 1986 proposal.

Senator WEICKER. If the area is as large as you indicate, do you feel you can do the job with 20?

Ms. NORWOOD. We can do a lot of work with 20 staff.

Senator WEICKER. Senator Proxmire.

Senator PROXMIRE. Thank you, Mr. Chairman. It is good to see you, Dr. Norwood. Dr. Norwood and I are old buddies. I see her every month, and I have for about 6 or 7 years.

Ms. NORWOOD. If you permit me to interrupt you, Senator Proxmire is a very difficult person to appear before. [Laughter.]

Senator PROXMIRE. Well, she is marvelous to appear before the Joint Economic Committee. I am glad to see you this morning. But I am going to ask you a toughy although the chairman has asked about this, and I am delighted he has. I would like to ask the question a little differently.

I'd like to refer to an article that appeared in the Federal Times on February 11. I don't know if you saw it or not.

Ms. NORWOOD. Yes, I did.

FEDERAL TIMES ARTICLE ON PERSONNEL CENTRALIZATION

Senator PROXMIRE. I am going to read the article to you. It raises a disturbing possibility, and I have a suggestion that might safeguard the situation. The article says:

> Officials at the Bureau of Labor Statistics are reportedly worried that the Bureau is in danger of losing its traditional image as a nonpartisan, unbiased source of vital economic statistics.
>
> Agency sources say BLS Commissioner Janet Norwood is fighting an internal battle with top Labor Department officials over a plan to give Thomas Komarek, the Department's Assistant Secretary for Administration and Management, authority over the BLS personnel system. The idea is part of an overall plan to unify Labor's decentralized management structure.
>
> BLS officials, sources said, worry that the reorganization would allow the Reagan administration to politicize BLS's statistical efforts by controlling the distribution of staff within the Bureau.
>
> If the Bureau wanted to do a study that might not reflect well on administration policy, said one BLS economist, and needed to move people around to do it, Komarek could just refuse to approve the transfer.
>
> This source speculated whether Norwood, who has avoided public disputes with the administration in the past, might take her case to Congress if she loses her fight within the Department.

This is very disturbing to us. I am sure it is disturbing to the chairman because it so very much involves the integrity of your operation, and the absolute faith that the Congress and the public has in your statistics. I think that faith is very firm now. It has never been firmer than it has been under your leadership.

I cannot understand why it is necessary to give Mr. Komarek this authority over officials within your department who would be making vital decisions or key reports to the public or to the Congress.

Couldn't we provide some kind of bill language here that would create an exception, bill language that would say no funds can be used to transfer authority over personnel to the Department. In this way we could insulate a limited group of officials from the influence of Mr. Komarek.

Ms. NORWOOD. Let me first say it is not the influence of Mr. Komarek.

Senator PROXMIRE. That is exactly right and I am delighted you made that point. I am aware of Mr. Komarek's fine reputation. I am not talking about Mr. Komarek. I am talking about any future administration, be it Democratic or Republican.

Senator WEICKER. If the Senator would yield, we do have already on the record the Commissioner's assurance when whatever final plan is devised, she will come back to this committee to give us her evaluation of the plan.

Senator PROXMIRE. I appreciate that.

Senator WEICKER. I wanted to add that, at which time that could be used as the basis for further discussion. I didn't mean to interrupt.

Senator PROXMIRE. I didn't want to put Dr. Norwood in the position of having to run to Congress for relief from her superiors.

Senator WEICKER. She is not running; I have asked.

Senator PROXMIRE. I know, but it seems to me if we simply take the precaution of putting this language in the bill, it would mean the legislation would be clear, not only with respect to this administration—with all the attention we have focused on the issue there is probably not much danger here—but in the future there have been problems in the past, 10 or 15 years ago.

Ms. NORWOOD. You certainly know that quite well.

Senator PROXMIRE. Yes, indeed.

Ms. NORWOOD. Certainly, the committee can look at this in many different ways. I have been having discussions with the Under Secretary to try to see to it that the professional staff of the Bureau, as distinct from the processing, are insulated and protected. There are many different ways of doing that. Certainly this is one of them.

EFFICIENCY OF MANAGEMENT CENTRALIZATION

Senator PROXMIRE. I appreciate that because then the exception would affect only a tiny proportion of the total number of employees that would be centralized. I am sure that generally speaking it is a good efficiency measure to provide centralization.

Ms. NORWOOD. Well, the reductions, of course, that I have agreed to and that I am supporting would take care of the efficiency aspect.

Senator PROXMIRE. Were those reductions recommended by you to the Office of Management and Budget?

Ms. NORWOOD. I support them.

Senator PROXMIRE. You support them.

Ms. NORWOOD. Yes; I support them. I am also rather proud of the fact that our administrative overhead in the Bureau of Labor Statistics is less than 5 percent. It is extraordinarily low, and we keep watching it.

CHANGES TO BLS RECOMMENDATIONS BY THE OFFICE OF MANAGEMENT AND BUDGET

Senator PROXMIRE. Did OMB change your recommendations after you submitted them?

Ms. NORWOOD. As you know——

Senator PROXMIRE [interposing]. I don't want a summary of your discussions with OMB. I want to know if they changed your figure or not.

Ms. NORWOOD. There has been a lot of discussion about the budget back and forth as there is every year.

Senator WEICKER. I think a standard question—I ran into this with Secretary Dole on Amtrak—and I think a standard question probably this committee ought to pose and, indeed, any subcommittee of the appropriations, if you want the answer to that question, Senator Proxmire, in order to preserve the integrity of the various officials within the administration, then you are perfectly free to go ahead and ask for their original submissions.

Senator PROXMIRE. I accept that very helpful suggestion, and I ask for the original submissions. Can you submit that to the committee?

Ms. NORWOOD. To the extent we are able to do so, we will provide you the submission to OMB.

CURRENT POPULATION SURVEY PROGRAM DECREASE

Senator PROXMIRE. On page BLS–15 of your justifications you refer to a program cut that would result in the elimination of a planned change in data collection in the current population survey to strengthen the quality of the data for the New York City and Los Angeles metropolitan areas.

How reliable is the current data, and how much will you save by shelving plans for improvement?

Ms. NORWOOD. I think that reduction has to be looked at in connection with the redesign of the current population survey. We are in the process, as you know, of redesigning the entire sample to take account of the distribution of the population in 1980. In this redesign, for a variety of reasons, we are improving the data considerably, and we will have a survey that will be at least as good as the survey we have now.

We had thought that because of the problems we have had with the State and local unemployment data, which is used often by the Congress in legislation, that we would try our best to improve those data as well.

We have, in fact, built into this redesign some considerable inprovements for each of the individual States. We have reduced their error rate on an annual basis by several percentage points.

We had thought that what we would do is have the same level of reliability for the States and New York and Los Angeles, which are the only two other areas. That, however, would take a considerable number of households, 1,600 households, to be exact, which is quite a lot.

Looking at cost-benefit analysis, in the kind of budget period we are in now, it seemed this was a fairly sensible area to cut. I am not concerned about this cut at all.

Senator PROXMIRE. There is a little matter, I suppose of competition and jealousy between cities. New York is obviously the biggest city. Los Angeles is barely, just by a hair's breadth, bigger than Chicago. Why did you pick Los Angeles only and not both Los Angeles and Chicago since the two cities are basically the same size?

Ms. NORWOOD. Basically, for historical reasons. Once you start publishing data, you continue to publish it. It is very difficult to pull something away. If we had our options, I suspect that we wouldn't be publishing those data at all because their quality will never be as good as the quality of data for the Nation as a whole, or for each of the individual States. But that is where we are, and I do want to emphasize that I am not at all concerned about this reduction. I do not believe it will hurt the data.

LABOR MARKET INFORMATION PROGRAM REDUCTION

Senator PROXMIRE. The justifications also mention eliminating selected activities in States cooperating in the Labor Market Information Program. As a practical matter, how would that affect the quality of the statistical output generated by this program?

Ms. NORWOOD. I am sorry; I didn't get the first part.

Senator PROXMIRE. The justifications also mention eliminating selected activities in States cooperating in the Labor Market Information Program.

Ms. NORWOOD. There has been an increase in State salaries and we have a limited amount of money to administer the Federal/State programs. We have talked with the States about efficiencies, some of which we believe they can put into effect. We have also discussed with them the priorities of the programs. If necessary, in order to cope with those increased costs that are not in the budget, we will work with the States to develop some reduction in the detail or frequency of the occupational employment statistics program which is of lesser priority than the other Federal/State statistical programs.

I am not sure that will be necessary or how much of it will be necessary.

EQUIPMENT COSTS

Senator PROXMIRE. I have just one other question. I notice that your equipment costs currently exceed last year's estimates. The appendix to last year's budget request indicates you planned to spend $919,000 on equipment in 1984 and $999,000 on equipment in 1985. Those figures have been revised upward in this year's appendix to actual expenses of $2,526,000 in 1984 and projected equipment costs of $1,826,000 this year. Those are big upward revisions. What is the reason?

Ms. NORWOOD. I would like to have Mr. Barron answer that question, but before he does, I would like to point out that one of my major concerns is the capital investment that we are not making for the technology that we need for modern data collection. We are behind the other statistical agencies in this area—well behind them.

Mr. BARRON. Senator, there is a variety of reasons why our expenditures have exceeded the budget availability in the past. We have always gone through, we thought, appropriate clearances. One of the reasons is that we received virtually nothing in the way of equipment in the launching of the Consumer Price Index revision, which, as you know, is a major program we do every 10 years or so. When we started the program several years ago, there was another departmental across-the-board type limitations that didn't really allow for any substantive assessment of what the impact would be, so we had to make up for that in order to keep the program operating, as both the administration and the Congress intended.

The other issue that we are pursuing, however, is procurement for the development of a local area network within the Bureau that in the long run will reduce our computer costs, and enable people to download data and use micros. This will reduce the use of contract computer services, which we now procure.

Those are two initiatives. We will provide a statement for the record.

[The information follows:]

In addition to the CPI revision and regional terminal and local area network equipment requirements. BLS requested reprogramming to finance the purchase of modular workstations for efforts underway in Washington and New york to reduce and consolidate BLS workspace.

QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator PROXMIRE. Thank you. Thank you, Mr. Chairman.

Senator WEICKER. Thank you very much. Thank you for your testimony. There will be further questions for response to the record.

[The following questions were not asked at the hearing but were submitted to be answered for the record:]

QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

SERVICE SECTOR DATA COLLECTION

Question: How much more would have to be added to your fiscal 1986 budget request to finance 40 positions for the service sector program?

Answer: The full year cost of a 40 position Services program in FY 1986 would be $2.3 million. There is currently $1 million included in the BLS FY 1986 budget for a Services program.

OCCUPATIONAL ILLNESS DATA

Question: A Congressional study reported that occupational illness data issued by your office is "fragemented, unreliable, and 70 years behind communicable disease surveillance." What can be done to improve this situation?

Answer: The Bureau's data on occupational injuries and easily recognized, acute illnesses are reliable. The problem centers on that set of illnesses which requires a high degree of medical expertise to diagnose them and to establish occupational causation. In addition, the problem is compounded by the latency of many diseases. These are primarily medical and not statistical problems. Improved reporting of these diseases, therefore, will depend on improved diagnostic techniques and greater emphasis toward occupational medicine.

From the statistical side, we are working with other agencies to obtain direct and more timely reporting of known occupational diseases, acute and long latent, and to explore alternative sources of information for refining occupational disease estimates. Finally, the Bureau is strengthening the revised recordkeeping guidelines to heighten employer awareness of occupational disease.

RESCISSION OF PLANT CLOSING STUDY

Question: Last year the Congress appropriated some $5 million for the Bureau of Labor Statistics to conduct a mass layoff and plant closing report. Now, you have requested that these funds be rescinded. As you know, the Congress is highly concerned that limited economic assistance funds reach those areas most in need. How does the postponement of the plant closing data series hinder the Congress in this concern?

Answer: Congress may wish to consider use of data services available at the local level -- for example, local area unemployment statistics -- for targeting economic assistance funds.

REVISION OF THE CONSUMER PRICE INDEX

Question: The Bureau of Labor Statistics is currently in the process of revising the Consumer Price Index (CPI). What revisions are being made and when will they be reflected in the reported index?

Answer: The basic objectives of the CPI Revision program, the first results of which will be introduced with release of the CPI for January 1987, are:

1. To incorporate the results of the 1980 Census of Population into the CPI to account for population shifts which have occurred since 1970. This includes reselection of the geographic areas in which pricing is conducted as well as the household samples needed to support estimates of price change for rent and homeownership costs;

2. To update the CPI market basket of goods and services to the 1982-84 period to reflect changes in consumer spending which have taken place since the 1972-73 period currently used as the reference base; and

3. To improve measurement techniques where possible and to develop statistical measures of the reliability or accuracy of the CPI and its components.

In addition, the revision period will be used to introduce operational improvements into the CPI production process, including modernization and improvement of computer systems and the introduction of a formal quality measurement program.

As indicated, an updated and modernized CPI will be issued effective with data for January 1987. Implementation of some planned revision activities will continue through 1988. The principal activity to continue after January 1987 is completion of the phasing in of the new sample of geographic areas.

Question: Could you briefly outline how these revisions are expected to make CPI a better measurement tool?

Answer: The market basket of goods and services priced for the CPI should be an accurate reflection of recent consumption patterns. Among the changes in consumer purchasing that one would expect to see in the new market basket are (1) effects of the shifts to more fuel-efficient automobiles on both auto and gasoline consumption, (2) effects of the higher frequency of two-earner households on both the consumption of day care services and the relative expenditures on food at home *versus* food away from home, (3) effects of changes in the availability and relative cost of alternative household fuels (gas, electricity, oil), and (4) the appearance of new home electronic items--computers, video recorders, video games, purchased telephones.

The revised index will better reflect changes in population distribution. The substantial movement of population from the North and East to the South and West means, among other things, shifts in patterns of consumption for such things as apparel and household fuels as well as changes in the relative impact of regional markets on the national average.

Since 1983, the CPI-U has used a rental equivalence approach to the measurement of homeowner's shelter costs. The revised CPI will incorporate a new, more efficient housing survey that will better meet the demands of the rental equivalence method as well as the requirements of the index's residential rent component.

Finally, a comprehensive quality assurance program is being established for the index that will cover all phases of activities from design through data collection and compilation to analysis and publication of results. Error sources will be identified and measured. Systematic error will be eliminated and sporadic error will be subjected to control.

STUDY OF OSHA STATISTICS

Question: The conference report accompanying the regular fiscal 1985 Labor-HHS money bill directed that $500,000 be allocated for studying the accuracy and quality of occupational safety and health statistics. How do you propose utilizing these resources?

Answer: The Bureau of Labor Statistics (BLS) is considering a contract with the National Academy of Sciences, Committee on National Statistics for an objective and independent expert panel study of the reliability of the occupational injury and illness data. Such a study would cover the occupational injury and illness statistical program in its entirety, including concepts and recordkeeping; survey design; sampling and estimation procedures; and employer recordkeeping and reporting.

The BLS also plans to conduct a small-scale on-site review in manufacturing industries of employers' policies, procedures, and practices on recordkeeping as well as on data and records availability. Finally, BLS will sponsor a symposium on occupational illnesses to explore, with Federal and State health agencies, the adequacy of other data sources for improving the measurement of occupational diseases.

Question: Is there any evidence that businesses are underreporting workplace injuries and illnesses?

Answer: There is no objective evidence indicating that businesses underreport occupational injuries. Underreporting of occupational disease, on the other hand, is inherent in the current recordkeeping and reporting system because it does not capture the occupational diseases of workers who have left their jobs. The magnitude of this shortcoming in the reporting system is unknown. The longer the latency period for a disease, the more likely it will go unreported.

Question: Would the Inspector General's office or the Occupational Safety and Health Administration be better suited to evaluate the accuracy of safety and health statistics?

Answer: BLS works with OSHA on an ongoing basis to maintain the accuracy of safety and health statistics. BLS believes in full and open discussion of all aspects of all of its programs and would, of course, work closely with any evaluation group. While an OSHA or IG evaluation of recordkeeping enforcement would be feasible, evaluating the accuracy of the statistical records requires extremely technical methods and extensive statistical background.

CUT IN PUBLICATIONS

Question: What specific activities are being eliminated in order to reduce publications' costs?

Answer: To reduce publication costs we are taking the following actions in lower priority activities :

- a reduction in the frequency of publication of certain items, for example, the Monthly Labor Review will become a quarterly publication;

- the elimination of certain flyers, news releases, announcements, administrative manuals, regionalized and localized reports, periodicals, and bulletins (a total of approximately 130 items); including

o A report on How the Government Measures Unemployment

o Questions and Answers on Male and Female Earnings;

o A Profile on Black Workers;

o Historical Supplement to Employment and Earnings;

o Family Employment Characteristics Data Book;

o Consumer Expenditure Survey Data;

o Four reports and 8 news releases on the Collective Bargaining Outlook;

o A bulletin on Productivity in Manufacturing;

- Two Occupational Outlook reissues;
- A report on Occupational Outlook for College Graduates;
- Two catalogs of Current Publications of BLS; and
- Handbook of Labor Statistics;

- a reduction in the size of certain items, such as the Employment and Earnings Supplement (a periodical), Product Checklists (a form), and Industry Synopsis (an administrative manual);

- a reduction in the total number of copies printed of certain items, such as localized Consumer Price Index news releases, reports and announcement; and

- a reduction in the cost of producing certain items, such as Area Wage Survey Bulletins.

Question: Will you be forced to turn the Monthly Labor Review into a quarterly publication? How much would this save?

Answer: Yes, a total of $151,000 will be saved. This includes 5 full-time permanent positions at the cost of $127,000 and $24,000 for printing the Monthly Labor Review.

Question: What would be the adverse impact of less frequent publication of such periodicals as the Monthly Labor Review?

Answer: In the case of the Monthly Labor Review (MLR), it would reduce the current government journal on labor economics to a quarterly. At present, the Monthly Labor Review provides users with current monthly data from the Bureau's programs in one easy to use-and-reference publication. However, the data is all available in other publications. The MLR is known for its economic analysis on economic and social statistics and indicators. Quarterly publication of this journal will reduce the scope of economic analysis published by the government and require reference to several different publications for data now gathered together monthly in the MLR.

STATE AND LOCAL UNEMPLOYMENT DATA

Question: Once again the accuracy of State and local area unemployment data is being questioned. Given that Federal funds are allocated on the basis of these numbers, it is important that these data be highly accurate. What has been done over the past few years to improve the accuracy of State and local data?

Answer: Beginning with the estimates for January 1985, improved Current Populations Survey (CPS) estimates for States were introduced as a result of the implementation of a redesigned CPS sample and improved estimating procedures. The CPS sample is normally redesigned each decade to take into account the most recent Decennial Census data and make improvements in survey design. The 1980 redesign was dramatically different from earlier redesigns in that the need for CPS data for States was explicitly recognized. This was done by requiring that each States' CPS sample be designed to ensure that the sample represents the population of the State. As a result of efficiencies resulting from this redesign and improvements in estimating methodology it was possible to reduce the sampling error associated with the estimates to an 8 percent coefficient of variation at a 6 percent unemployment rate without increasing the sample size in the nation as a whole.

The Bureau of Labor Statistics has also been engaged in a long-term research effort to improve the methodology used to develop State and local area estimates. In work done to date, individual econometric models have been developed and tested for each of the 39 States and the District of Columbia for which monthly data from the CPS are not used directly. Additionally, a single pooled model, based on data for some 150 Standard Metropolitan Statistical Areas (SMSA's), has been developed for substate areas. Results suggests that it may be possible to develop a new estimating system for States and areas, based on econometric models, that will eliminate the major statistical and operational defects in the current system, and hence, result in a substantial improvement in the accuracy of subnational employment and unemployment estimates. As part of the continuing development and testing of the new system, cooperating State agencies have recently begun to simulate and evaluate the application of the system under study for their State and substate estimates.

DATA ON PERSONS EXHAUSTING UNEMPLOYMENT BENEFITS

Question: The Federal Supplemental Benefits (FSB) program, which provides unemployment insurance benefits to jobless workers who have exhausted their basic 26-week entitlement, expires at the end of March.

What data does the Bureau of Labor Statistics have on what happens to unemployment insurance exhaustees in order that we can determine the need to continue the FSB program?

Answer: The Bureau does not regularly collect information on the labor force experience of unemployment insurance exhaustees.

National data from the Current Population Survey on the unemployed by weeks of unemployment are available on a monthly basis. Information on the long-term unemployed by State (by sex, and, in larger States, by race and ethnic group) is available on an annual average basis only.

Question: What would it cost to do a study on the labor market experience of State unemployment insurance exhaustees?

Answer: Based on the information we have at our disposal, we cannot estimate what the cost of a study covering all State unemployment insurance exhaustees might be. Previously, we had indicated that the cost of a more limited study covering individuals affected by a plant closing or mass layoff would be approximately $1.5 million.

SERVICE SECTOR STATISTICS

Question: What steps has the Bureau of Labor Statistics (BLS) taken to improve service sector statistics?

Answer: The BLS has begun utilizing the funds appropriated for service sector data expansion to develop and produce additional series on employer costs, productivity, producer prices and international prices for service-producing industries. The details of these steps have recently been provided to the Committee in a full report on improving service sector statistics.

Question: Which series are being improved and when will the results be available?

Answer: During FY 1985, BLS plans to publish 12 new Employer Cost Index (ECI) series for services which are supported by the previous base. Further, we plan to begin an enhancement of the ECI which will increase the sample size by 650 observations (employers) by 1990. This will permit 22 new ECI series for services to be introduced over the next six years.

We also plan to develop and publish labor productivity measures for four additional service sector industries in FY 1985 and for another four service industries in FY 1986.

BLS also plans to utilize existing data for development of Producer Price Indexes for seven additional industry groups and international price indexes for four categories. One of these series--a PPI for intrastate private telephone lines--would be introduced during FY 1985, and the remaining series are planned for publication by December 1986.

RESCISSION OF PLANT CLOSING STUDY

Question: The President's Commission on Industrial Competitiveness recently released an 18 month study urging the early identification of plant closings and of displaced workers in order to improve the adjustment process. In light of these strong recommendations, why has a request been made to rescind the appropriations for the Permanent Mass Layoff and Plant Closings Report program (PMLPC)?

Answer: The PMLPC Program was never intended to provide advance warning on plant closings and displaced workers. Thus it would not have served the purpose of an early identification system.

RESCISSION OF PLANT CLOSING STUDY

Question: The administration has asked to defer and now to rescind the $5 million Congress appropriated to the BLS to implement the Permanent Mass Layoff and Plant Closing Report (PMLPC) on the grounds that the economic recovery did not warrant such a program. How is this logic justified when unemployment has risen to 7.4 percent?

Answer: The request to rescind the appropriations for the PMLPC Program reflects a budgetary decision made after a review of Departmental and BLS program priorities, with the PMLPC being a lower priority than currently operating core statistical programs.

CLOSING OF REGIONAL OFFICES

Question: How would the proposed closing of three regional offices affect the availability and dissemination of the Bureau's data in these areas?

Answer: The proposed closing of the BLS Regional offices in Boston and Kansas City, together with an overall reduction in the BLS Information and Correspondence Units, will mean that responsibilities for providing such information will be largely assumed by the six remaining BLS regional offices as well as the Washington program office staff. As is the case for most locations in the country, inquiries in these two cities would be able to get responses from the other offices.

SUBCOMMITTEE RECESS

Senator WEICKER. The subcommittee will stand in recess until Friday at 10 a.m. when we will reconvene in this room to hear testimony on the fiscal year 1986 administration's budget for the Occupational Safety and Health Administration and the Mine Safety and Health Administration.

[Whereupon, at 10:48 a.m., Wednesday, February 27, the subcommittee was recessed to reconvene at 9 a.m., Friday, March 1.]

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1986

FRIDAY, MARCH 1, 1985

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10 a.m., in room SD-116, Dirksen Senate Office Building, Hon. Lowell P. Weicker, Jr. (chairman) presiding.

Present: Senators Weicker and Proxmire.

DEPARTMENT OF LABOR

MINE SAFETY AND HEALTH ADMINISTRATION

STATEMENT OF DAVID A. ZEGEER, ASSISTANT SECRETARY FOR MINE SAFETY AND HEALTH

ACCOMPANIED BY:

- **THOMAS J. SHEPICH, DEPUTY ASSISTANT SECRETARY FOR MINE SAFETY AND HEALTH**
- **JOHN A. STOCKMAN, ACTING CHIEF, DIVISION OF BUDGET AND FINANCE, OFFICE OF ADMINISTRATION AND MANAGEMENT**

OPENING STATEMENT

Senator WEICKER. Today we will finish our Labor Department hearings on the administration's fiscal year 1986 budget request with testimony on the Mine Safety and Health Administration, Departmental Management appropriations, and the Occupational Safety and Health Administration.

Our first witness will be Mr. David Zegeer, Assistant Secretary of Labor for Mine Safety and Health.

Good morning to you. We look forward to your testimony.

All statements will be included in their entirety in the record. Synopsize them as you see fit.

Please introduce your colleagues.

Mr. ZEGEER. Thank you, sir.

I have on my left Mr. Thomas Shepich, who is my Deputy Assistant Secretary. On his left is John Stockman, our Budget Officer.

I have a short prepared statement with which I would like to begin.

Senator WEICKER. Do you ever get any phone calls, Mr. Stockman, meant for the other Stockman, being a budgeteer with the same last name?

Mr. STOCKMAN. Yes, sir.

Senator WEICKER. A very hazardous name these days. [Laughter.]

Mr. ZEGEER. I am pleased to appear before you to present the fiscal year 1986 appropriation request for the Mine Safety and Health Administration. This request totals $144,767,000 and 2,977 positions to conduct mine safety and health activities.

Before we discuss MSHA's budget request for fiscal year 1986, I would like to mention two administration initiatives which MSHA has incorporated into its Mine Safety and Health Program.

First, I support the administration's commitment to improve the efficiency of Government and to reduce unnecessary burdens on industry as well as improve health and safety. This involves a comprehensive review of MSHA's policies and regulations. The review involves all concerned parties: labor, industry, and others.

Second, I also support the administration's philosophy of complementing enforcement activities with cooperative efforts by management, labor, and Government.

In my view, the Mine Safety and Health Administration has responsibilities not only for the monitoring of mining activities to ensure their compliance with the law but also for developing and conducting other activities which will result in improved safety and health for everyone involved.

I believe that the budget I presented which incorporates these two administration policies will provide the necessary resources to protect the safety and health of the Nation's miners.

PREPARED STATEMENT

Mr. Chairman, that concludes my summary statement. I welcome this opportunity to respond to any questions you might have.

Senator WEICKER. Before we proceed, we will insert your statement in the record.

[The statement follows:]

STATEMENT OF DAVID A. ZEGEER

I am pleased to appear before you to present the fiscal year 1986 appropriation request for the Mine Safety and Health Administration. This request totals $144,767,000 and 2,977 positions to conduct mine safety and health activities. Although this represents a decrease of $5,442,000 and 117 positions from 1985, these reductions are primarily based on more efficient utilization of resources and the reduced number of operating mines.

Before we discuss MSHA's budget request for fiscal year 1986, I would like to briefly outline MSHA's responsibilities for mine safety and health and to discuss my philosophy of how best to execute those duties.

I fully support the administration's philosophy of complementing enforcement activities with cooperative efforts by management, labor, and Government. In my view, the Mine Safety and Health Administration has responsibilites not only for monitoring mining activities to ensure their compliance with the law, but also, for developing and conducting other activities which will result in improved safety and health for everyone involved. The agency must, therefore, continue to focus on its additional roles of technical and educational assistance, and working with labor, management, and State agencies to develop ways of motivating all members of the mining community to commit themselves totally to a safe and healthy working environment.

I support President Reagan's commitment to improve the efficiency of Government and to reduce unnecessary burdens on industry as well as improve health and safety. This involves a comprehensive review of MSHA's policies and regulations. The review involves all concerned parties: labor, industry, and others. This cooperative effort will continue to be one of my major goals.

ENFORCEMENT

A total of $101.9 million and 2,336 positions is requested for enforcement activities in both coal and metal and nonmetal mines. Although this is a reduction of $4.9 million and 85 positions from 1985, it is related primarily to the reduced number of operating mines requiring inspections and a more efficient use of inspection staff in followup inspections to ensure abatement of violations. The resources requested for 1986 will provide for an estimated 30,128 regular health and safety inspections. In addition to these inspections, 64,456 other followup inspections, investigations and education and training activities will be conducted to assure that violations against health and safety standards cited during the regular inspections are corrected and that mines are operated in a safer and healthful manner.

ASSESSMENTS

A total of $1.7 million and 57 positions is requested for the Assessments Program for fiscal year 1986. This is a reduction of $180,000 and five positions from 1985. This reduction reflects more efficient utilization of resources.

In both 1985 and 1986 the assessment activity will continue to assess civil penalty cases, and to collect and account for all penalties paid.

Improvements in debt collection of civil monetary penalties will be stressed in both 1985 and 1986 to increase the effectiveness of the Assessments Program.

EDUCATIONAL POLICY AND DEVELOPMENT

A total of $11.5 million and 99 positions is requested for educational policy and development in fiscal year 1986. This is a reduction of $202,000 and two positions from 1985. The Mine Academy will provide 41,200 student days of professional instruction in mine safety and health subjects in both 1985 and 1986. A total of $5.2 million is included for the State Grants Program in 1986 for 42 participating States.

TECHNICAL SUPPORT

A total of $17.9 million and 340 positions is requested for technical support activities in 1986. This is a decrease of $622,000 and 11 positions from 1985.

The technical support activity will continue to provide direct support to MSHA's enforcement activities by making its technical expertise available to solve difficult mining problems that threaten the health or safety of miners.

PROGRAM ADMINISTRATION

A total of $11.8 million and 145 positions is requested for program administration, a decrease of 14 positions and an increase of $424,000 from 1985. This change is a result of savings from the more efficient utilization of resources offset by an increase for the orderly replacement of 52 passenger and 31 special purpose MSHA-owned motor vehicles which will meet GSA standards for replacement in 1986.

SECTION 2910 RESCISSION

In addition to the fiscal year 1986 budget proposal discussed above, MSHA is also submitting a fiscal year 1985 rescission proposal of $1,776,000 pursuant to section 2901 of the Deficit Reduction Act of 1984 (Public Law 98-369). This rescission is proposed to achieve savings in several areas including: motor vehicles, travel, public affairs, publishing, and consulting services.

CONCLUSION

Mr. Chairman, that concludes my prepared statement. I welcome this opportunity to respond to any questions you have.

QUALITY OF MINE INSPECTIONS

Senator WEICKER. Your budget justification indicates that despite the proposed staffing cuts, you will continue to carry out the full level of mine inspections required by law.

Mr. ZEGEER. Yes, sir.

Senator WEICKER. You are eliminating 84 out of 2,318. What assurance can you give us that the quality of inspections is not suffering and you are maintaining the quality of inspections?

Mr. ZEGEER. First of all, I might say to you, sir, we have 2,100 less mining operations now than we did 4 years ago. Just the past quarter, the last 3 months of last year, there were 280 fewer coal mines operating than previously. We are losing mines.

As far as the quality of the inspections, right now we have 30 of our inspectors attending a 6-month intensive training course at the MSHA Academy in Beckley, WV. They will be there for 6 weeks, get a weekend off, and then another 6 weeks.

We continually train our inspectors to be sure they carry out the law and use good judgment. We monitor it. We have retraining sessions. We have checks and balances to be sure that we do carry out the law in the most effective way possible.

INCREASE IN FATALITIES

Senator WEICKER. The rate of fatalities among coal miners was up substantially in 1984 over 1983. To what do you attribute this?

Mr. ZEGEER. In 1984 we had the record year for coal production in the history of this country. There were about 880 million tons of coal produced and more workers working but fewer mines.

We were doing fairly well in 1984. In fact, 1984 would have been the second year in the history of this country that we would have had less than 100 fatalities. Of course, on December 19 we had the mine fire in Utah. But 1984 was still the third best year ever in the history of mining.

The Utah incident did do this: It caused us to renew our efforts, knowing in that particular case that the mine had never had a fatal accident since the company had been operating it. That brings out the fact we can never become complacent. It requires constant vigilance on the part of all of us.

With that in mind, we are furthering the training programs we have, taking them to the industry, working closely with everybody in the mining community.

Senator WEICKER. Senator Proxmire.

POSITION REDUCTIONS AND FATALITIES

Senator PROXMIRE. I want to make an inquiry along the same line as the chairman has. You are proposing to cut 56 positions from the Coal Mine Safety and Health Enforcement Program in fiscal 1986. The result will be that you will have to maintain the same number of inspections with fewer resources.

On the other hand, deaths in the Nation's coal mines almost doubled between 1983 and 1984, jumping from 70 in 1983 to 124 in 1984. That is an increase of 54 deaths. You referred to the Utah disaster, but Kentucky at that point had 34 fatalities. The State's death toll in 1983 was 12. So obviously the increase isn't simply attributable to the Utah disaster.

How do you justify a cutback in your enforcement program in the face of these alarming statistics?

Mr. ZEGEER. One point, sir. In Kentucky it was 39, I think, not 34.

Senator PROXMIRE. I'm referring to a January 14 article.

Mr. ZEGEER. But this situation in Kentucky, that was 39.

Senator PROXMIRE. Of course that makes it worse.

Mr. ZEGEER. Yes; 34 was the figure the State used, but our count was 39.

ROOF EVALUATION—ACCIDENT REDUCTION PROGRAM

But this, of course, caused us to renew our efforts. We have intiated several training programs. One is on roof control under what we call REAP. Everybody in the mining business, the American Mining Congress and several other organizations, joined us in this effort because the roof fatalities increased. Up to June 12 of last year, we had 18 roof fatalities. Most of them were in Appalachia, in the small mines; 16 of the 18 fatalities had happened when people went beyond the roof support, which they are not supposed to do but still they did it.

We redoubled our efforts. We sent 700 ispectors out in the field. They visited all the mines within a 5-week period of time. Any mine found where anybody was violating good mining practice and going beyond roof support was shut down. We shut down 15 mines in a period of 5 weeks. Then we went for a period of 7 weeks without a single roof fatality.

Roof fatalities are the biggest killer in the mining industry. So far this year we have not had a single roof fall fatality. This is the longest time in history we have gone without a roof fatality, even though I will admit, one could be happening now.

FATAL SLIDE PROGRAM

We have begun to really communicate with the mining community, and we have every fatal accident that has happened in the mining industry, starting in 1983, reduced to a 2-by-4 slide. Companies, institutes, and various organizations can use these slides for training purposes. We use them for training and retraining. We have had over 2,600 requests for these slides with the dissertation that goes with them. This, too, has helped reduce the accidents.

SUPERVISORY FATALITIES

We recognize, and this was unusual, the largest number of deaths in the mining industry has happened among supervisors. In coal alone, 20 percent of all fatalities were supervisors. Most of those deaths occur when they are not doing supervisory work; 70 percent of those deaths occurred when the supervisors were doing blue collar work, which they should not be doing. They should be supervising.

We finished late last year for coal a very good course on supervisory training. We have had very good response from the industry requesting this information.

We are doing the same thing for the metal-nonmetal industry.

VENTILATION PROBLEMS

We are addressing these problems, recognizing, too, the concern over ventilation. Somebody could forget to close a door, put up a curtain, or whatever it may be, to maintain good ventilation, not only in coal mines but in metal-nonmetal mines.

Senator PROXMIRE. Let me interrupt. You are making a very, very fine case. I have no question about your expertise and your stress on training is obviously exactly right.

Mr. ZEGEER. Yes, sir.

ENFORCEMENT REDUCTIONS

Senator PROXMIRE. But my question is how do you justify a cutback in your enforcement program personnel in the face of these alarming statistics? In other words, you will have fewer people to do the job. Obviously, if you have an increase in fatalities, and this is a very severe and serious problem, having adequate personnel is just as important as having well-trained personnel.

Mr. ZEGEER. Well, that is true, but we are losing some mines. There are fewer mines.

Senator PROXMIRE. But you said more miners were mining more coal.

Mr. ZEGEER. Regardless of the size, a mine requires four inspections a year, if it is an underground mine, and two if it is a surface mine. Once you go to that mine, a small mine might take you 5 to 8 days to inspect. A large mine, of course, takes you longer. There are certain routine things you have to do regardless of the size of the mine.

With 2,000 fewer mines, getting people trained, like the 30 people who will be at the academy for 6 months and then will be back in the inspector force, and regulations that have tied up a lot of people, MSHA will have sufficient staff available to conduct mine safety and health activities.

REDUCTION IN 1985 POSITIONS

Senator PROXMIRE. Your 1985 budget request proposed a reduction in coal mine health and safety enforcement to 1,796 positions. Yet you give your 1985 base as lower than that, 1,788 positions. Since the Congress fully funded your operations last year, why were you forced to cut an additional eight positions below your initial estimates?

Mr. ZEGEER. As we keep reviewing our situation, we want a balanced organization. We found we had fewer mines. The copper industry has not come back. The molybdenum mining is reduced. Even coal mining is cutting back. Silver mines are shutting down.

All of this has an impact on the number of inspectors we need, and we don't want to spend money we don't need to spend. But our responsibility is to see the inspections are carried out.

APPROVAL FEES SCHEDULE

Senator PROXMIRE. Your inspector general in his last semiannual report raised some serious questions regarding the activity of the Mine Safety and Health Administration's Approval and Certification Center which ensures products used in mines are safe through a process of testing and evaluation. The inspector general's report points out that your failure to raise equipment testing fees as recommended back in 1981 might have cost the Government over $3 million a year and that you are now recovering only 10 cents on the dollar.

Why haven't you revised any of your test fee schedules over the past 3 years in accordance with your inspector general's recommendation?

Mr. ZEGEER. We got a recent report from the inspector general. We reviewed it. This summer we are going to be coming out with regulations. We are going through the rulemaking now. We will be publishing in early 1986 the new fee schedule.

Senator PROXMIRE. It is taking you a long time, though. This was first recommended in 1981, 4 years ago.

Mr. ZEGEER. I have been in MSHA only a little over a year, and I didn't know about it before I came.

QUALITY ASSURANCE PROGRAM

Senator PROXMIRE. The inspector general's report also stated you had failed to fully implement a 1981 recommendation that a quality assurance program be put in place by the Approval and Certification Center. The report indicated that over the last 4 fiscal years the center had field tested less than 2 percent of 25,000 pieces of mine equipment and that one out of every eight pieces of equipment tested was found to have critical or major deficiencies.

What do you do when you find a critical or major deficiency?

Mr. ZEGEER. Might I ask Mr. McCulloch, who is manager of our Technical Support Program, to respond to this. This is Mr. Madison McCulloch.

Mr. MCCULLOCH. Senator Proxmire, there are several steps we can take. If the deficiency constitutes an imminent hazard, we immediately cause the product to be removed from the market. If it is less serious, we take less stringent action.

Senator PROXMIRE. Why is the failure rate so high? One out of every eight pieces of equipment was found to have critical or major deficiencies, yet the report from the inspector general says you field tested less than 2 percent of the 25,000 pieces of mine equipment.

It would seem you obviously didn't test in many cases where there may have been a serious deficiency, which could be a hazard to life.

Mr. MCCULLOCH. Senator, some of those deficiencies did not involve an initial testing error. In fact, most of them didn't.

At the time the product was tested, it was deemed to be adequate. Subsequent to testing and after it had been on the market for several years, there might be a manufacturing change that we consider a major discrepancy. The change may not adversely affect the safety of the miners, but it may be termed a major discrepancy because there is a major deviation from the drawings that are on file. In many instances, the correction of that major defect is just to update the drawings that we have on file.

Senator PROXMIRE. Do you have any future plans for a quality assurance program, a specific set of benchmarks with a timetable?

Mr. MCCULLOCH. Yes, sir.

Senator PROXMIRE. Can you give us that for the record?

Mr. MCCULLOCH. Yes, sir.

Senator PROXMIRE. Thank you.

[The information follows:]

QUALITY ASSURANCE PROGRAM

Following the report of the inspector general in 1981, MSHA initiated development of a quality assurance program which by September 1984, was implemented and staffed commensurate with organization goals. Under this program the number of product audits will increase from 100 units in fiscal year 1984 to 300 units during fiscal year 1985. Additional expansion of the program is anticipated as experience is gained. In December 1984, the Office of the Inspector General concurred with the Assistant Secretary of Labor for Health and Safety that MSHA had developed and implemented a viable quality assurance program.

The approval of permissible equipment for the prevention of fires and explosions in gassy underground mines has been a continuing effort by MSHA and its predecessor organization for more than 70 years.

QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator WEICKER. Thank you very much, Senator Proxmire.

There are a few other questions for response to the record. Otherwise, I thank you very much for your appearance.

Mr. ZEGEER. Thank you very much, Senator.

[The following questions were not asked at the hearing but were submitted to be answered for the record:]

Questions Submitted by the Subcommittee

QUALITY OF INSPECTIONS

Question: Your budget justification indicates that despite proposed staffing cuts, you will continue to carry out the full level of mine inspections required by law. What assurances can you provide that the quality of inspections is not suffering, in order to maintain the quantity of inspections?

Answer: MSHA will not let the quality of inspections suffer when budget reductions are made. The staffing cuts proposed are related to the reduced mine count and the implementation of management efficiencies, both of which will reduce the quantity of inspections required but allow MSHA to provide the same quality of health and safety to the nation's miners.

Maintaining a high quality enforcement program is just one component of MSHA's philosophy for protecting the miners' safety and health. The other two equally important parts are engineering and education. In addition to inspectors, MSHA has a staff of engineers and specialists on board to assist the industry in resolving complex technological compliance problems and to test and certify as safe all equipment and machinery used in mining. Even with strong enforcement and the best engineering available, miners will only be protected if they are educated to work in a safe and healthful manner. The Mine Act requires annual training of all miners, and MSHA carries out a wide variety of activities in support of this mandate. For example, MSHA approves training plans, certifies and monitors instructors, conducts classes, seminars and workshops, develops and distributes educational materials, and awards grants to states for training purposes.

COST OF COMPLIANCE WITH MINE SAFETY LAW

Question: It has been alleged in the press that fines for breaking the law are not high enough to give mining companies an incentive for compliance. Do you feel there is sufficient financial incentive for mining companies to comply with the law?

Answer: MSHA's current civil penalty program offers two types of financial incentives designed to encourage compliance. An example of the first type is the timely abatement of a violation in order to qualify for the $20 penalty for non-serious violations and for the 30 percent reduction in the penalty for serious violations. The second type is the assessment of stiff penalties for very serious violations, for violations involving high operator negligence and for violations associated with an indifferent or poor attitude toward safety.

MSHA has not conducted a study of the correlation of penalty amounts to mine operator compliance with the law. However, a cursory review of average penalty amounts and fatalities since 1978 indicate similar trends. For example, as average penalty amounts increased, so did fatalities; and as average penalty amounts declined, the number of fatalities declined. However, no valid conclusions can be reached from this summary data.

MSHA believes financial incentives are helping to encourage compliance with the law. Additionally, the cooperative effort of management, labor and government is certainly a very important contribution to improved safety and health in the mining environment.

RELAXATION IN ENFORCEMENT EFFORTS

Question: How do you respond to allegations that there has been a relaxation in enforcement efforts?

Answer: A comparison of enforcement activity between FY 1983 and FY 1984 shows an increase in every measurable category. The total number of citations and orders that were issued increased; the number of violations that were determined to be significant and substantial increased; the number of violations that were given a special assessment increased; and the percentage of violations that were determined to be unwarrantable remained at the same level for coal mines and increased for metal and nonmetal mines. These facts do not support the allegation that there has been a relaxation in enforcement efforts.

However, enforcement actions alone will not achieve MSHA's objective for a healthful and safe working environment in American mines. Sound engineering practices and proper education and training for miners also are essential ingredients to reducing accidents and injuries.

FATALITIES IN METAL AND NONMETAL MINES

Question: Among metal and nonmetal miners, fatalities in 1984 were nearly 25 percent higher than in 1983. What would you say caused this?

Answer: MSHA investigates every fatality that occurs to determine its cause and to prevent similar occurrences in the future. When MSHA noticed the alarming increase in fatalities in 1984, especially in the areas of powered haulage, machinery, and explosives, metal and nonmetal inspectors suspended normal operations for one week in August and visited mining operations in an effort to reverse the trend. Another program developed to make the mining community aware of the causes of fatalities was the Fatality Slide Program. Illustrations made of each fatality have been presented by MSHA specialists to interested parties and nearly 2,000 copies have been distributed.

In 1984 the metal and nonmetal industries added an average of 3,375 more miners to the workforce and reported a 10 million increase in employee hours worked over 1983. It is reasonable to assume the increase in mining activity contributed to the increase in fatalities.

MINE WORKER TRAINING

Question: How does worker training under your new program of training grants (totaling $2 million) differ from training originally required by the Mine Safety and Health Act?

Answer: The new State Grants special emphasis program is aimed specifically at meeting the mining community's training needs, especially for small mine operators. These grants will make it possible for employees at small mining operations to receive the safety training and technical assistance they need but might not otherwise be able to afford.

The proposals were funded based on a priority ranking. Category I were proposals designed specifically to meet the training, technical assistance, and engineering assistance needs of small mine operators utilizing as much as possible local resources, such as vocational-technical schools and community colleges. Category II were proposals addressing the needs of the total mining industry. Category III were proposals that expanded existing programs. All of the Category I and II proposals were funded, making a total of 40 recipients.

Question: What kinds of routine training are still given miners?

Answer : All subject areas required under Part 48 training regulations are still being given to miners. This includes the training of new miners, the training of newly-employed experienced miners, the training of miners assigned to a task in which they have had no previous experience, annual refresher training of miners and hazard training. Miners are given training in areas such as hazard recognition and avoidance, self-rescue and respiratory devices, emergency and evacuation procedures, first aid, mandatory health and safety standards, roof or ground control and ventilation plans and other areas specified in the Part 48 Code of Federal Regulations.

COAL MINE ENFORCEMENT ACTIVITIES

Question: Last year, you estimated there would be 80,950 coal mine inspections in fiscal 1985. This year's budget revises that estimate downward to 68,660 inspections. Why would there be a 15 percent drop in inspections when you experienced only a 5 percent drop in the number of mines available for inspections?

Answer: The reduction in inspections is related not only to the decreased number of mines available for inspection but to a change in inspection procedures implemented in 1985. Previously, a regular inspection, once begun, would continue on consecutive workdays until completed. One or more special compliance follow-up inspections were then required to ensure the abatement of all violations found. Under the revised procedures, the regular inspection will be extended over a longer period so that violations found during the early part of the inspection can be corrected prior to completion of the regular inspection. It is anticipated that the need for many special compliance follow-up inspections will diminish. In addition to utilizing MSHA resources more efficiently, the revised procedures should better protect the health and safety of the miners by allowing coal inspectors to observe the mining environment over a longer period of time and by reducing the operator's ability to have advance notice of inspection visits based on his knowledge that regular inspection days would be continuous.

COAL STAFF REDUCTIONS

Question: Why are you eliminating 56 coal enforcement staff in fiscal 1986, when you project no cutback in the number of mines to be inspected?

Answer: The reduction of 56 positions will be accomplished gradually through attrition beginning in 1985 and continuing into 1986. The President's revised 1985 budget estimates project a total of 4,925 coal mines available for inspection, 300 fewer than last year's estimate for 1985. This decrease, along with the change in regular inspection procedures implemented in 1985, reduce the need for coal enforcement staff and form the basis for the 1986 request.

CUTTING MINE SAFETY AND HEALTH INSPECTORS

Question: What justification is there for reducing the number of mine safety and health inspectors if both hourly employment and production in coal and metal and non-metal are holding steady or growing, as they did in 1984?

Answer: While hourly employment and production did increase slightly in 1984, MSHA has requested sufficient mine inspectors in 1986 to carry out its safety and health responsibilities.

Currently there are about 4,700 coal mines in operation, 225 fewer than the 4,925 projected in the 1986 budget request. Even with a resurgence in the general economy, past history shows the coal industry takes about 18 months to experience the same recovery. Considering these facts, MSHA does not anticipate a shortage of coal inspectors in 1986.

In the metal and nonmetal industries, the increase in hourly employment relates primarily to the crushed stone operations. These mines generally take less time to inspect than large underground mines or open pit operations, both of which have been slowly declining. Therefore, fewer inspectors will be needed in 1986 to conduct the required inspections. Extra attention can be directed toward individual operations that experience an increase in injuries due to increased hours and production.

QUALITY OF INSPECTION

Question: If the inspection force is cut, what would you do to insure that there is no accompanying decrease in the quality of inspection?

Answer: MSHA constantly monitors and evaluates its inspection program to determine its effectiveness in protecting the miners' safety and health. This process extends from the field office level to Headquarters. As part of the evaluation process, the number of hours spent on each type of inspection activity is recorded and analyzed. This data is used in the budget process to ensure that sufficient inspectors are requested to conduct the inspections required for the mines in operation. In 1986, MSHA will continue to monitor the situation so that the quality of inspections is maintained.

Questions Submitted by Senator Arlen Specter

GREENWICH COLLIERIES EXPLOSION

Question: One year ago (February 16, 1984), there was a tragic mine explosion at the Greenwich Collieries mine in Cambria County, Pennsylvania, killing three people. Has your office completed an investigation of the accident to determine its cause? If not, when will a final report be issued on the accident? Is one year a standard length of time to complete an accident investigation?

Answer: The investigation of the explosion at the Greenwich Collieries mine has been completed and the final report is expected to be issued within the next six weeks.

Many factors significantly influence the amount of time required to complete an accident investigation. These factors include the type of accident, the number of fatalities, the type of investigatory inquiry conducted, the time required to make the accident area safe for investigation, and the complexity of the investigation.

Fatal accidents which result in the death of one person are investigated by MSHA District personnel. As a rule, a single fatal accident does not require an extensive physical investigation or a lengthy investigatory inquiry. As a result, an investigation is completed and a report is issued within 90 days after the occurrence of most single fatal accidents.

Multiple fatal accidents, however, can take considerably more time to investigate. These accidents are investigated by a team of MSHA Headquarters, District, and, sometimes, Technical Support personnel. The physical investigation of a multiple fatal accident can be very extensive, especially in the case of a mine fire or explosion where a large area of the mine and many mining subsystems are involved. These investigations can take up to one year.

NUMBER OF MINE INSPECTORS AND FATALITIES

Question: There is a tragic correlation between cuts in MSHA enforcement activities and coal mine fatalities. I am very concerned with the proposal to continue the trend toward reductions of the coal mine inspection force, especially when coal mine activities are on the increase. Can MSHA assure coal miners and their families that the further proposed reduction in the number of mine inspectors will not result in increased fatalities?

Answer: MSHA can assure coal miners that regular inspections of all operating coal mines will be maintained at the level required by law, four for underground mines and two for surface mines. However, inspections alone cannot prevent fatalities. MSHA has instituted several special emphasis programs such as REAP (Roof Evaluation--Accident Prevention) and VAP (Ventilation Awareness Program) to combat fatalities by roof falls and explosions, and reimplemented the Fatal Alert Bulletin to make the mining industry aware of the causes and frequency of fatal accidents. In addition, MSHA will continue the annual Winter Alert program to publicize the increased dangers posed by the mining environment during late fall, winter, and early spring, and will continue the Non-Fatal Days Lost accident reduction program which concentrates on mines having injury rates higher than the national average.

CLOSURE ORDERS

Question: The Collieries mine in Cambria County was cited for hundreds of safety violations, and yet it remained open. What number or kinds of violations must be found in a mine before MSHA orders it closed?

Answer: The types of action which would cause part or all of a coal mine to be closed by MSHA are set forth under the following sections of the Federal Mine Safety and Health Act of 1977:

107(a) - When an imminent danger exists, an inspector must determine the extent of the area of the mine affected and order the affected area closed. When the condition or practice that caused the danger no longer exists, the order is lifted.

104(b) - An inspector will order an area closed whenever the reasonable amount of time to abate a citation is exceeded and an extension of time to correct the condition is not justified. The affected area is reopened when the condition which gave rise to the violation is corrected.

104(d) - When a violation is found that meets certain criteria including that it was caused by the operator's unwarrantable failure to comply, an inspector must order closed parts of the mine that are affected. Again, the area will be reopened when the inspector finds that the condition which gave rise to the violation nas been corrected.

i03(j) - In the event of an accident where rescue and recovery work is necessary, an inspector may issue, if appropriate, this order to protect the life of any person and to supervise and direct the rescue and recovery activities.

103(k) - In the event of an accident, an inspector may issue, if appropriate, this order to insure the safety of any person in the mine.

In the 12-month period between January 1, 1983, and December 31, 1983, Greenwich Collieries No. 1 Mine was cited for 320 violations of mandatory health and safety standards. Affixed to each citation issued was a reasonable time for abatement of the violation. When the condition was corrected, the citation was terminated and no part of the mine was ordered closed.

Three times during 1983, however, areas of Greenwich Collieries No. 1 Mine were ordered closed, twice for Section 107(a) orders and once for a Section 104(b) order. The two imminent danger orders (Section 107(a)) were issued in active coal-producing areas for having explosive methane accumulations. The areas ordered closed were the working sections. One violation was corrected and reopened in 45 minutes; the other was corrected and reopened in 25 hours. The "failure to abate" order (Section 104(b)) was issued in an idle bleeder area when air was found to be traveling in the wrong direction and the condition was not corrected in the reasonable time. After the order was written, the condition was corrected in 23 hours and the idle area was reopened.

AVERAGE FINES

Question: I have received complaints that MSHA has been reducing the fines it imposes on mine owners for safety violations. Has the average fine for each type of violation found by MSHA changed over the last ten years?

Answer: The average fine assessed over the last ten years has ranged from $109 in 1975, to $147 in 1978, $62 in 1983 and $75 in 1984. This fluctuation in average penalty amounts is the result of several factors.

A 1978 change in assessment regulations increased the dollar amounts in the conversion table used to derive penalties from points assigned for six statutory assessment criteria. A 1981 Mine Safety and Health Review Commission decision changed the definition of a significant and substantial violation, resulting in a reduction in the number of violations designated serious and thus decreasing the associated penalties. A 1982 change in assessment regulations provided for a $20 penalty for non-serious violations that were timely abated. A recent increase in the number of violations found to be serious resulted in the increase in the average penalty last year.

During this ten year period, however, the stiff penalty amounts have remained about the same for the very serious violations and for those involving high operator negligence or an indifferent or poor attitude toward safety.

CORRELATION OF FINES WITH INJURIES

Question: If there has been a downward trend in fines, please correlate that trend with numbers of injuries and fatalities.

Answer: MSHA has not studied the correlation between penalty trends and injury and fatality trends. A cursory review shows similar trends for penalties and fatalities since 1978. That is, as the total amount assessed went up, so did fatalities; and as the assessed amounts went down, so did fatalities. However, no valid conclusions can be reached from this summary data.

FINES AS A DETERRENT

Question: When fines are diminished, is not the deterrent against safety violations diminished?

Answer: Only fines for non-serious violations have been diminished and then only when the violation is rapidly corrected. Serious violations, as well as those involving high operator negligence or an indifferent or poor attitude toward safety, have received about the same dollar amount of penalty since 1974. Thus, the deterrent against these types of violations has not been diminished.

REVENUES FROM FINES

Question: Could MSHA avoid further cuts in its inspection force by increasing its revenues from fines?

Answer: Revenues from fines are deposited in the General Fund of the Treasury and are not available for use by MSHA.

QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

TUITION FEES

Question: Mr. Zegeer, your FY 1986 budget justification indicates on page 31 that MSHA will begin charging tuition fees for certain individuals who receive training at the Mine Safety and Health Academy in Beckley, West Virginia. First, exactly which individuals does MSHA propose to charge for this training, and how much is the proposed fee?

Answer: MSHA proposes to charge tuition fees to all persons who receive training at the Academy except employees of Federal, State or local governments and persons attending the Academy under a program supported through an MSHA State Grant. The tuition fee will be approximately $20.00 per day at the Academy, prorated on an hourly basis.

COLLECTIONS OF TUITION FEES

Question: How much does MSHA anticipate that it will collect in total during FY 1985 if these fees are imposed? And, how much would be collected in FY 1986?

Answer: Based on current utilization, approximately $50,000 will be collected for the remainder of fiscal year 1985. For fiscal year 1986 estimated collections are approximately $100,000.

DEPOSIT OF TUITION FUNDS

Question: Would these funds be returned to the General Fund of the Treasury or would they be made available for subsequent use by MSHA?

Answer: These funds would be deposited in the General Fund of the Treasury and would not be available for subsequent use by MSHA.

TIMING OF TUITION FEE PROPOSAL

Question: Mr. Zegeer, did you propose these increased fees when your budget request was sent to the Office of Management and Budget this past fall?

Answer: Tuition fees were not specifically mentioned in the 1986 budget request MSHA sent to the Office of Management and Budget this fall since the implementation of this new policy was to begin in fiscal year 1985 and had been included in the 1985 President's budget. However, the continuation of this new policy in 1986 was certainly a part of MSHA's 1986 budget proposal at the time the budget request was forwarded to the Office of Management and Budget.

CHARGES FOR ROOM AND BOARD

Question: Is it not correct that these same individuals are already charged for their room and board when they attend the academy?

Answer: Yes. These same individuals are being charged for their room and board when they attend the Academy. Room and board is currently $29 per day.

IMPACT OF TUITION FEES

Question: Would you supply any analyses done by your office, or some other office, that indicates the impact that these increased fees will have on the national mine safety and health training programs administered by your office?

Answer: MSHA has not conducted a study on this subject. The minimal charge to be made hopefully will not affect the mining community's use of MSHA training programs.

REDUCTION IN STUDENT DAYS

Question: Coincidentally, the budget justification indicates that student training days will drop from 43,928 in FY 1984 to a level of 41,200 in FY 1986. Does this reduction in projected student days reflect an assumption that fewer people will utilize the training services at the National Academy due to the imposition of these new fees?

Answer: MSHA has not made the assumption that fewer people will utilize the Academy because of the imposition of tuition fees. After 1984, training for MSHA employees is projected to increase primarily because of the long term supervisory training program. Therefore, less space will be available for use by non-MSHA employees and will result in an overall decrease in student days.

DECREASE OF POSITIONS

Question: The budget justification also shows a drop of six positions in the FY 1986 education program. How many of these positions are at the National Academy?

Answer: For the six position reduction MSHA has not determined the specific positions affected by type or location. MSHA plans to make the reduction through attrition thereby minimizing the impact on individual employees. Program priorities and employee attrition will be major factors in determining the number of positions that will be reduced at the Academy.

POSITIONS BEING ELIMINATED

Question: What grades and types of positions are you proposing to eliminate?

Answer: At this time MSHA has not determined the specific positions by grade, type or location to be eliminated. Program priorities and employee attrition within the program will be major factors in making this reduction in positions. MSHA plans to make the reduction in positions through attrition in order to minimize the impact on individual employees.

BASIS OF THE POSITION REDUCTION

Question: On what basis is this reduction proposed?

Answer: The reduction of 6 positions is the result of savings in publishing, printing, reproduction and audio-visual activities as required by Section 2901 of the Deficit Reduction Act of 1984 and savings achieved through economies in operations through the productivity review program.

TRAINING EFFICIENCIES

Question: Are you achieving higher training efficiencies and, if so, please be specific in describing what these efficiencies are?

Answer: For internal MSHA training the Academy has restructured the training whereby part of the training for MSHA employees is given in an on-the-job training situation. MSHA believes this is a more efficient method for training employees in skills applicable to their jobs.

Also, MSHA is in the process of doing utility evaluations of all courses at the Academy. Each course is evaluated three months after the course is completed and again at six months from the course completion date. This is a means to tailor the training to the real training needs on the job. If subject areas are not used, they are removed from the curriculum of future courses.

For industry training MSHA is using volunteer assistance from the mining community in the development of training materials beginning in fiscal year 1985. MSHA believes the cooperative effort in the development of these materials not only enhances the use of its personnel resources, but also assures the applicability of the training materials to mine safety and health.

ENFORCEMENT POSITIONS

Question: Turning to another topic, your justification indicates that coal mine enforcement personnel will drop by 155 between 1984 and 1986. How many of the 99 enforcement positions eliminated in 1985 were for inspectors, and how many of the 56 positions proposed to be eliminated in 1986 are occupied by inspectors?

Answer: Of the 99 position reduction in the Coal Enforcement program in 1985, 63 were inspector positions and in 1986, 36 are inspector positions.

IMPACT OF REDUCTIONS ON INSPECTIONS

Question: What impact will these reductions have on your ability to complete your mandatory inspection workload related to surface and underground coal mines, and what will be the impact on your ability to carry out special inspections and investigations in FY 1986?

Answer: The reductions will not have an impact on MSHA's ability to complete all required inspections for surface and underground coal mines. All serious accidents will continue to be investigated and special inspections conducted as necessary. The reductions are consistent with the revised estimate of coal mines available for inspection and reflect the change in inspection procedures which will reduce the need for many special compliance follow-up inspections.

IMPACT OF REDUCTIONS ON HEALTH AND SAFETY

Question: Would you supply for the record any analyses you may have showing the impact of this 155-position reduction on your ability to protect the health and safety of the Nation's coal mines?

Answer: MSHA's first concern is always protecting the health and safety of the Nation's miners, and this mission will not be hampered by the reduction in positions. Sufficient resources have been requested in 1986 to carry out the provisions of the Mine Safety and Health Act of 1977, and MSHA will advise the Appropriations Committee, as directed in the 1985 Senate Report (No. 98-544), when this is no longer possible. While no formal analyses of the reductions have been prepared, the following data show the impact of the decreasing number of mines and change in inspection procedures on inspection workload.

Coal Mine Safety and Health

	1985 Estimate	Revision of Mine Count	Change in Inspection Procedures	1985 Revised Estimate	1986 Estimate
Mines	5,225	-300	--	4,925	4,925
Inspections	80,950	-1,790	-10,500	68,660	68,660

A corresponding reduction in positions was made to reflect the decline in workload.

DEPARTMENTAL MANAGEMENT

STATEMENT OF THOMAS C. KOMAREK, ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT

ACCOMPANIED BY:

DONALD E. SHASTEEN, ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

J. BRIAN HYLAND, INSPECTOR GENERAL

BERNARD POSNER, EXECUTIVE DIRECTOR, PRESIDENT'S COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED

INTRODUCTION OF ASSOCIATES

Senator WEICKER. Our next witness will be Mr. Thomas Komarek, Assistant Secretary of Labor for Administration and Management.

Go right ahead, Mr. Komarek. Why don't you introduce who you brought with you today?

Mr. KOMAREK. Thank you, Mr. Chairman. I am glad to be here again.

On my right, Mr. Chairman, is Brian Hyland, who is the Department of Labor's Inspector General. On my immediate left is Don Shasteen, who is the Acting Assistant Secretary for Veterans Employment and training. On my far left is Mr. Bernard Posner, Executive Director of the President's Committee on Employment of the Handicapped.

PREPARED STATEMENTS

Mr. Chairman, in the interest of time, I would like to enter our full statements for the record and just highlight a few points.

[The statements follow:]

STATEMENT OF THOMAS C. KOMAREK

Mr. Chairman, members of the Subcommittee. thank you for this opportunity to appear before you. I am prepared today to outline for you the budget recommendations for the Departmental Management, Salaries and Expenses, and Special Foreign Currency appropriations.

Departmental Management -- Salaries and Expenses

Activities financed by this appropriation are responsible for formulating and overseeing the implementation of policy and management of the Department. In addition, this appropriation includes a variety of operating programs and activities which do not logically fall within the administration of other programs of the Department. In addition to providing funds for executive direction, adjudicatory, and management functions of the Department, this appropriation provides funds for:

the Bureau of International Labor Affairs,
the Solicitor's Office,
the President's Committee on Employment of the Handicapped,
the Women's Bureau, and
the Office of Civil Rights.

The budget request for Fiscal Year 1986 for the Departmental Management Salaries and Expenses appropriation is $110.1 million and 1,829 positions, of which $94.7 million is from general funds, $.3 million is from the Unemployment Insurance Trust Fund and $15.1 million is from the Black Lung Disability Trust Fund within the Employment Standards Administration.

This Fiscal Year 1986 request represents a net decrease of $6.7 million and 100 positions over the comparable base in Fiscal Year 1985. Included in the Fiscal Year 1985 base is an increase to the 1985 appropriation of $180,000 and 5 positions resulting from a comparative transfer from the Labor-Management Services, Salaries and Expenses account to provide administrative support. The 1985 base also includes a decrease of 62 positions which reflects a transfer to the Working Capital Fund to support the National Capital Service Center.

In the Fiscal Year 1986 budget request, there are two major components of the requested net decrease of $6.7 million. The first is the cost of built-in changes which require a net increase of $8.1 million. The second part is the cost of program changes which amount to a net decrease of $14.8 million.

The Fiscal Year 1986 built-in increases include: 1) the additional cost of within-grade promotions, 2) increased cost of GSA Standard Level User Charges, and 3) other items explained in detail in the summary of changes.

A total of $14,846,000 and 100 positions in program reductions is being taken to realize the President's goal of reducing the budget deficit through savings achieved in both programmatic and administrative areas. These program reductions are distributed as follows: savings of $2,849,000 as a result of the proposed five percent pay reduction; $5,276,000 by freezing GSA Standard Level User Charges to the 1985 level; $93,000 from productivity improvements; and $1,375,000 through reductions in administrative support services; $840,000 and 19 positions through consolidation of small regional offices; $2,867,000 and 38 positions through a program freeze; $1,465,000 and 41 positions through a ten percent administrative reduction and $81,000 and 2 positions through the formation of the National Capital Service Center.

Departmental Management -- Special Foreign Currency

The budget request for Special Foreign Currency in Fiscal Year 1986 totals $47,000 which will support foreign service consultation and travel to a small regional conference for all Labor attaches in the region. This regional conference will contribute significantly to efforts to acquaint labor attaches with the current reporting needs of the Department, discuss strategies for achieving U.S goals in the international labor field, and to consider methods for increasing the effectiveness of the Labor attache corps.

FY 1985 Rescission Proposal

We are also submitting FY 1985 rescission proposals of $728,000 for the Salaries and Expenses Appropriation and $20,000 for the Special Foreign Currency Program, pursuant to Section 2901 of the Deficit Reduction Act of 1984 (P.L. 98-369). The proposed rescission in the Salaries and Expenses Appropriation will achieve savings in several areas, including: travel and transportation; consultant services; and printing and publications. The proposed rescission in the Special Foreign Currency Program will achieve savings in travel.

I appreciate the opportunity to appear before the Subcommittee. Here with me today are other officials of the Department whose organizations are funded by this appropriation. We will be happy to answer any questions.

STATEMENT OF BERNARD POSNER

Thank you for this invitation to describe in brief our FY 1986 budget request. It's getting to be a habit, but once again we come asking for no increase in personnel nor in programs. In fact, our 1986 budget request is $1,000 less than our 1985 request.

We are able to operate within budget restraints for three reasons. First, our activities represent a blend between our small paid staff and our large number of unpaid volunteers. There is a smooth inter-relationship between staff and volunteers; it grows smoother each year. Second, since we are not an operating agnecy with fixed programs, we have the capacity to change priorities to keep pace with the changing times. And third, our staff, plus our volunteer members, have developed a keen sensitivity to trends, both economic and social, as they affect disabled people. We can respond not only quickly, but accurately.

I would like to report our priorities for the coming year.

1) Last year, our volunteer employer-members brought into existence a Job Accommodation Network, a National computer service to help employers make accòmodations for their disabled workers. This year, we intend to push it into high gear (it's almost there already).

And the employers are considering another National project which would give an appreciation to the new computer world to disabled high-school students; this would enhance their job-finding capabilities later in life.

2) Many Governors' Committees on Employment of the Handicapped have moved into areas other than employment, as a result of local pressures. We have begun to step up our advisory services to these Committees to encourage them to make employment a dominant priority. We're having success; we hope to have more in the year ahead.

3) We have mobilized leaders of public and private sectors, leaders of business, leaders of labor, leaders of Congress to put on an International Festival and Forum of Sports and Recreation for Disabled People. Dominant purposes are to encourage more handicapped employment in the rapidly-growing recreational fields; to demonstrate to the public at large that disabled people can lead most active lives; to encourage disabled people themselves to engage in sports and recreation as a means of stretching bodies and minds. We hope to encourage many States to hold similar festivals in the year ahead.

4) We are still concerned that rehabilitation counselors and educators do not keep up with the rapid changes in America's labor-market and employment patterns. Obviously, it is easier for a disabled person to get a job in a field of rising employment than in a field of static employment.

So we plan to hold more State and National seminars on "Pathways to Employment," bringing together leaders of many walks of life to discuss the changing job-market and to develop plans to enable disabled young people to train for the right jobs in the right places.

These four (among at least a dozen) projects demonstrate our blend of staff and volunteers; blend our capacity to keep pace with the changing times; develop innovative means of action.

Harold Russell, our Chairman, is proud to have taken the leadership in these and other areas. I know we shall try to keep current with the times.

STATEMENT OF DONALD E. SHASTEEN

Thank you for this opportunity to discuss with you the Fiscal Year 1986 Department of Labor Budget proposal as it pertains to veterans' employment and training programs.

Before I provide details about budget matters, I would like to mention a few items about which we are especially pleased and enthusiastic. Making the Office of the Assistant Secretary for Veterans' Employment and Training the principal focus for administering veterans' programs within the Department has proven beneficial. For example, having responsibility for the Veterans' Reemployment Rights program has improved our ability to respond in a more timely fashion to resolve veterans' employment problems; reemployment cases are generally resolved sooner, and those without merit are promptly provided assistance in finding other employment.

We have implemented our grants programs under the Job Training Partnership Act (Title IV C), directed to meeting the needs of Vietnam-era, recently separated, and service-connected disabled veterans. We anticipate that we will be successful in meeting those needs and getting maximum results from the dollars available for two major reasons: the programs are planned at the State and local level and the grant process encourages the use of local matching funds. These factors will contribute to getting the most out of the dollars available. We have awarded about 65 grants thus far and almost doubled the amount available for special veterans' programs through the emphasis on matching funds as a criterion for selection of grantees.

We have also had the opportunity to develop and implement the Emergency Veterans' Job Training Program in cooperation with the Veterans Administration. We are confident that this major effort by two Federal agencies has proved to be very effective in helping veterans. To date approximately 28,000 long-term unemployed veterans have been placed. We have made the success of this program a high priority and we anticipate exceeding the program goal of 30,000 veterans placed in the near future.

We have also seen improvement in the productivity of the State Job Service agencies for veterans, as measured by the degree of priority delivered to veterans. The most recent national data available showed that veterans comprised 14% of all Job Service applicants, and 16% of all individuals placed by the State agencies. In prior years, veterans comprised the same percentage or less of the total placed as they did of the total registered.

Overall, it is accurate to say that the Department is providing better services to veterans now than in the past, and that veterans' unemployment is declining significantly.

Our budget request for Fiscal Year 1986 is $124.1 million. This amount includes for the Grants to States Programs $111.5 million, $60.9 milion for DVOP and $50.6 million for LVER. The funding is for 282 Federal positions, and 3,421 State agency positions allocated through grants-to-States. This fiscal Year 1986 request represents a net increase of $1.9 million, and a net decrease of 212 State agency positions compared to the Fiscal Year 1985 levels. Included in the Federal positions are the staff of the Office of the ASVET, the Veterans' Employment and Training Service (VETS), and the Veterans' Reemployment Rights program staff. Included in the State agency positions are the Disabled Veterans' Outreach Program (DVOP) staff and Local Veterans' Employment Representative (LVER) program staff.

Built-in increases of $4.6 million for the grants-to-States program resulted from anticipated mandatory State-legislated salary and finge benefit increases. Other major built-in increases of $1 million include: 1) an increase in non-personal services and postage costs, 2) increased general merit pay cost, 3) increased cost of administrative support services, and other items as explained in the summary of changes.

A total decrease of $3.8 million and 212 positions is proposed. This is composed of a built-in decrease of $1.2 million which is attributable to a decrease in disabled and Vietnam-era veterans population, and consequently a decrease in mandated positions in the Disabled Veterans' Outreach Program (DVOP), according to the legislatively prescribed formula. Program decreases totaling to $712 thousand represent savings achieved through the 5% Federal pay cut, a program freeze and savings in administrative services and overhead costs. Additional program decreases of $1.9 million were taken by the Local Veterans Employment Respresentative (LVER) program. This decrease resulted from a decline in the number of veterans registering at local State employment security offices. The ASVET is also submitting a FY 1985 supplemental reduction of $119,000. Pursuant to Section 2901 of the Deficit Reduction Act of 1984 (PL 98-369). The supplemental is being requested to achieve savings in several areas,including: travel and transportation and printing and reproduction.

As you probably know, FY 1984 was the first year in which the DVOP and LVER programs were administered under discrete grant agreements. The agency now has two years' experience in negotiating grants to the States for these special programs. For FY 1986 the funds requested for each program represent the total costs of providing the number of DVOP specialists required by the legislative formula and the number of full-time equivalent LVER positions, administrative staff and non-personal services funding.

Emphasis will continue in early FY 1986 on DVOP and LVER involvement in intensive job development and placement activity. In addition, these specialists will continue their efforts in coordination with service providers under the Job Training Partnership Act, community-based service organizations, and other supportive service agencies to ensure the provision of comprehensive services to veterans.

As previously mentioned, we have implemented a competitive grant application system for distribution of funds to the States and/or Service Delivery Areas under the Job Training Partnership Act. The budget amount for Veterans Employment Programs under JTPA, Title IV, Part C, is $7.7 million for FY 1986. As you are aware, Mr. Chairman, this funding level is determined by a formula contained in the Job Training Partnership Act. As I stated earlier, we expect that we will continue to have an effective program due to the competitive structure and the preference given to those applicants that match or exceed the grant amount with local funds.

In closing, I would like to thank you for this opportunity to discuss the FY 1986 budget and how it affects veterans' programs. I will be pleased to answer any questions you may have.

Statement of J. Brian Hyland

Mr. Chairman, members of the Subcommittee, I appreciate this opportunity to appear before you to discuss the Fiscal Year 1986 budget request for the Office of Inspector General in the Department of Labor.

The 1986 budget request totals $36.0 million of which almost $33.6 million is financed from general gunds, $2.1 milion is financed from the Unemployment Insurance Trust Fund, and $375,000 is financed from the Black Lung Disability Trust Fund. The request provides for 557 full-time permanent positions and $2.7 million in audit contract funds.

The 1986 request represents a net decrease of $4,488,000 below the FY 1985 request level. Program decreases include $3,248,000 for a ten percent reduction in administrative services and overhead; $1,206,000 for a reduction in ADP funding; $879,000 in savings through a five percent pay cut; $406,000 for savings from maintaining the FY 1985 level of GSA Standard Level User Charges; $197,000 for administrative support services savings; and $114,000 through the government-wide decision to freeze programs at the FY 1985 dollar level.

There is also an offsetting financing change from contract audit services to finance position not financed in FY 1985.

Built-in increases of $1,562,000 include: 1) the additional cost of within-grade promotions, 2) annualization of pay increase effective in January 1985, 3) annualization of the 1985 OLR program increase, and 4) increased cost of nonpersonnel items explained in detail in the summary of changes.

OIG is also submitting a FY 1985 rescission proposal of $3,766,000. Pursuant to Section 2901 of the Deficit Reduction Act of 1984 (P,L, 98-369), we are proposing a rescission that will achieve savings in several areas including; travel and transportation, printing and publications, and consultant (audit contracts) services.

The Inspector General will continue its investigative, audit, review and oversight responsibilities to prevent fraud, waste, and abuse in Departmental programs and operations. The IG will continue to conduct significant investigations, and audits will include program audits oriented toward economy and efficiency of program operations. The scope of our investigations and audits generally will be reduced, and OIG will initiate a change in policy to audit programs and activities based on cost considerations as well as the vulnerability of the activity.

Additionally, the IG's Office of Labor Racketeering will continue to investigate labor-related organized crime activities in cooperation with the Department of Justice.

Statistics do not accurately present the total accomplishments by the IG during the past fiscal year although the results are impressive. During FY 1984, OIG audits and investigations resulted in the following accomplishments:

-- 438 indictments, 258 convictions, 68 referrals for administrative action, and $4.6 million in fines, penalties, settlements, and judgements from fraud investigations;

-- 118 indictments, 93 convictions, and $1.5 million in fines and restitutions resulting from organized crime and labor racketeering investigations;

-- 1102 audit reports issued containing over $150 milion in audit exceptions; and

-- 1022 audit reports resolved resulting in management's commitment to recover $121 million in disallowances and $6 million in management efficiencies.

The results of operations in Fiscal Year 1984 returned about three times the amount of our budget.

I would be pleased to answer your questions.

BUDGET REQUEST

Mr. KOMAREK. I am prepared today to outline to you the budget recommendations for the departmental management, salaries and expenses, and special foreign currency appropriations.

Activities financed by the departmental management appropriation are responsible for formulating and overseeing the implementation of policy and management of the Department. In addition, this appropriation includes a variety of operating programs and activities which do not logically fall within the administration of other programs of the Department.

In addition to providing funds for executive direction, adjudicatory, and management functions of the Department, this appropriation provides funds for the Bureau of International Labor Affairs, the Solicitor's Office, the President's Committee on Employment of the Handicapped, the Women's Bureau, and the Office of Civil Rights. We have representatives from each of those offices here today if we need detailed responses.

The budget request for the departmental management, salaries and expenses, appropriation is $110 million and 1,829 positions, a net decrease of $6.7 million and 100 positions over a comparable base year in fiscal year 1985. In the special foreign currency account, we are requesting this year $47,000.

We are proposing some rescissions in these accounts, Mr. Chairman. We are submitting a fiscal year 1985 rescission proposal of $728,000 with the salaries and expense appropriation and $20,000 for special foreign currency programs. These are pursuant to section 2901 of the Deficit Reduction Act.

As I said, Mr. Chairman, I have the individuals here today to answer questions.

LMS COMPLIANCE AUDITS

Senator WEICKER. Mr. Hyland, nearly a year ago you advised the Secretary of Labor that the Compliance Audit Program used to detect serious civil and criminal violations of the Labor-Management Reporting and Disclosure Act has not proven effective. Earlier this week Ronald St. Cyr, Acting Assistant Secretary for Labor-Management Standards, disagreed with your conclusions and defended this program. Have you backed off from your finding that compliance audits were not an effective enforcement tool?

Mr. HYLAND. No, sir; we have not. We did have an exit conference with Mr. St. Cyr over 1 year ago, prior to the issuance of that report. There were no objections made to the facts or the findings.

They have since gone through a reorganization. We have not gone back to see whether or not there have been any changes or improvements in the program. At the time, the Labor-Management and pension-welfare benefits programs were one organization. We thought that there should be greater attention directed toward the pension welfare area since the funds which are protected by ERISA were close to $433 billion as opposed to the relatively small amount of funds protected by the LMRDA in the unions.

Senator WEICKER. Mr. Komarek, so that we don't do a rehash of the same ground here, don't you think that it would be proper either for you or for Secretary Ford to make sure that the inspector general gets together with Mr. St. Cyr and gets this thing cleared up?

Mr. KOMAREK. Yes, Mr. Chairman. The Department does believe it has made some progress in this area, and perhaps we could talk with Mr. Hyland about initiating a followup review to determine what progress has been made.

Senator WEICKER. You are going to be on very touchy ground with any of the congressional committees, believe me, when it is found that you are not paying close enough attention to the reports of your own inspector general.

Mr. KOMAREK. Mr. Chairman, I would like to assure you that we do pay very close attention to what Mr. Hyland reports. I know I certainly do myself. And we do feel that we have made some improvements in that program. As I said, I think that we would like to have Mr. Hyland review the situation again.

PENSION PROGRAM

One of the key features of Mr. Hyland's report was the suggestion that management put more priority on the pension reviews because of the large amounts of money in that particular program. I can assure you, Mr. Chairman, that since that review, we have in fact done that. Mr. Monks came in and we launched a national pension forum. We had an enforcement review group. We had Mr. Hyland's deputy serve as a cochairperson of that particular group. I can assure you, Mr. Chairman, that we look on his reports very, very seriously, and we are trying both to increase our emphasis on the pension review program and address the problems he pointed out in the Compliance Audit Program [CAP].

LMS LAW ENFORCEMENT OPERATIONS

Senator WEICKER. Mr. Hyland, what do you feel would be helpful at this juncture? Do you feel it would be helpful to sit back down with Mr. St. Cyr and see what has been done in relation to what was recommended?

Mr. HYLAND. Yes, Mr. Chairman. In fact, I proposed through the Under Secretary that we get together and review the entire law enforcement operations, not only with the labor-management but with the pension and welfare side, as well as our own activity. We should also see whether or not memoranda of understanding between the agencies and the Department of Justice are still current and whether or not we can improve upon them. The request was recently approved, and I was designated as the chairperson of that committee to update those memoranda of understanding.

As Mr. Komarek said, we did have a PWBP enforcement committee on which my deputy participated. I think we have made significant progress. It was because of that that we haven't gone back into OLMS before now. We do want to give them a chance to try to put a new perspective on this operation.

Senator WEICKER. I would appreciate it if you would forward to me a progress report on this matter let's say in a month's time.

Mr. HYLAND. Fine.

Senator WEICKER. Would you like to ask some questions? I understand you had a special interest in this area.

Senator PROXMIRE. Let me just ask one question of Mr. Hyland. Then I have other questions for Mr. Komarek after you finish, Mr. Chairman.

ENFORCEMENT TARGETING

In your latest semiannual report, Mr. Hyland, you indicate you are participating on a committee established to reevaluate the enforcement of the Labor-Management Reporting and Disclosure Act. The report says that your office is providing technical support in developing a statistical model for use in enforcement targeting.

I understand the first meeting to discuss this targeting model is to take place in May. Can you tell us when the work on the targeting model will be completed?

Mr. HYLAND. Not at this point, Senator. We do have, I think one of the most outstanding statisticians in the area of targeting. The individual is involved in a major project right now in developing targeting systems to detect fictitious employers schemes in the Unemployment Insurance Program. I think the project will be concluded within the next several weeks. After that, we will provide this support to OLMS to whatever extent they want our assistance.

As far as a deadline, at this point I really can't give you one. I will assure you that we will provide whatever assistance we can to OLMS.

Senator PROXMIRE. Will you know within the next couple of months when that work will be completed?

Mr. HYLAND. I think we can get you a target date.

Senator PROXMIRE. I would appreciate that.

Mr. HYLAND. Yes, sir.

Senator PROXMIRE. Thank you.

PERSONNEL SERVICES CONSOLIDATION

Senator WEICKER. Earlier this week BLS Commissioner Janet Norwood, in response to questioning, indicated she was concerned by certain aspects of your proposal to consolidate headquarters level administrative functions. Her concern was not over the transfer of eight positions and $250,000 to the National Capital Service Center but, rather, over management issues such as selection and promotion of staff, which could undermine the independence of the Bureau.

Will you cooperate with Commissioner Norwood in developing a final plan to resolve this matter? I would hope any plan that is arrived at will be submitted to this committee.

Mr. KOMAREK. Yes, Mr. Chairman.

Two points. First of all, Under Secretary Ford has directed me, in working with all agencies, to ensure that what is consolidated is only the ministerial, the bookkeeping, recordkeeping function, and not the decisionmaking kind of authority.

Of course, as we know, Commissioner Norwood will run her program, and there is no intention on the part of the Department of Labor to try to interfere in her management responsibility to run those programs, nor with any program of the Department. This is simply a way to try to do things more efficiently.

Senator PROXMIRE. Would the chairman yield for a followup question?

Senator WEICKER. Yes.

Senator PROXMIRE. Does this mean you will not consolidate the professional personnel that currently serves directly under Dr. Norwood's administration?

Mr. KOMAREK. What we are talking about, Senator, is consolidating only such functions as recordkeeping, that sort of function, allowing Janet Norwood to, if you will, have the same independence that Brian Hyland has. One of the misconceptions of this approach is that somehow or other my office was going to take hiring authority away from the individual agencies.

Senator PROXMIRE. I'm concerned about hiring, firing, and promotions. The problem we have here is not with you. We have great faith in you, and I don't think there is any way that you or this administration would use the proposed authority improperly. But the Bureau has been the subject of political attack in the past.

As you know, about 10 years ago there was what I and many other Members of Congress thought was a gross interference, or could have been, with the integrity of the figures on unemployment, which, of course, are political dynamite. We just want to make sure that the personnel which is responsible for gathering and reporting those figures, the professionals interpreting the figures, would not be subject to any kind of change in their present status.

Mr. KOMAREK. We are very, very sincere on that, Senator. I would assure you all we are talking about are the ministerial, bookkeeping type functions. We already do the hiring for Mr. Hyland here, who has also a very sensitive, independent role. If you would like to ask a question of Mr. Hyland right now about how many times I have named a person to his staff, I am quite sure he is going to say zero.

Senator PROXMIRE. I will give him a chance to answer that. Is that correct, Mr. Hyland?

Mr. HYLAND. Yes, sir. [Laughter.]

Mr. KOMAREK. Thank you.

Senator PROXMIRE. Thank you, Mr. Chairman.

OIG RESCISSION

Senator WEICKER. You are asking Congress to rescind $3,766,000 in fiscal year 1985 audit funds and then make a further reduction of nearly $6 million in the fiscal 1986 budget for the Office of Inspector General.

I would like to know what activities would be curtailed?

Mr. KOMAREK. Yes, Mr. Chairman. Could I say a few words before I turn it over to Brian?

Senator WEICKER. All right.

Mr. KOMAREK. One of the things this administration is very proud of is our record in supporting the inspector general. Just a few figures for the record.

Since this administration began, the overall employment in the Department of Labor has dropped from 23,841 to 18,151, which is our proposal in the 1986 budget. That is a reduction, Mr. Chairman, of almost 24 percent.

During that same period of time, the inspector general has had an increase in his ceiling from 439 to 559, which is an increase of 27 percent. So while the rest of the Department has been moving and consolidating, we have seen fit because of the inspector general mission to increase their ceiling by 27 percent from where it was and, at the same time, cutting back the rest of the Department.

Also significant, Mr. Chairman, is the fact that the discretionary accounts, particularly CETA, in the "Employment and training" account, have been cut way, way back from where they were 4 to 5 years ago. In total, the controllable accounts, the ones Mr. Hyland is most closely active in, were reduced 37 percent since 1981.

In making the departmental judgment—and, of course, Mr. Hyland will tell you in a second the inspector general perspective—but in making the departmental judgment about coverage that we want for our auditing of programs, we see that with the change from CETA to JTPA, with the greater State involvement, a sharp reduction in those funds, that we thought Mr. Hyland might be able to live with our reduction.

I think Mr. Hyland should also answer this question.

Mr. HYLAND. Mr. Chairman, last year the Congress passed the Single Audit Act. In 1982, the inspector general spent just about 100 percent of its audit effort on what we would call the financial and compliance type audits, contracts and grants.

The Single Audit Act now requires the grantees to hire independent public accountants to conduct that audit and then submit their findings to us. So the financial and compliance requirement is no longer in existence.

As far as the rescission is concerned, that is going to account for our CPA contracting. It will have an impact on the breadth and the scope of some of the audits that we would like to conduct. But nonetheless, I feel that we can get the mandated job done.

Some of the nice-to-haves may be difficult to do, but I think we can assure the Congress that as far as it is mandated upon the inspector general, we will get the job done.

EMPLOYMENT OF THE HANDICAPPED

Senator WEICKER. Early reports seem to indicate that the handicapped are not being served under the Job Training Partnership Act to the same extent they were under its predecessor legislation.

Are you aware of those reports?

Mr. KOMAREK. Mr. Chairman, I would like to ask Mr. Posner to address this. I think this is his area.

Mr. POSNER. Yes, sir, I have seen the reports. The percent of the handicapped served under JTPA is well under 10 percent. Of course, the percentage of disabled people in America is around 10 percent. The reason for it, I frankly don't know.

Senator WEICKER. What role can the President's Committee on Employment of the Handicapped play to increase employment of handicapped persons?

Mr. POSNER. We have already been doing a number of things. We have in production a special pamphlet on JTPA as a pathway to employment for disabled people. We are featuring JTPA in our annual meeting that is coming up on May 1 and 2, which brings in about 5,000 leaders from around the Nation.

Our chairman, Harold Russell, keeps talking about JTPA's role in preparing disabled people in his speeches around the country.

We are open to suggestions for further promotion.

Senator WEICKER. Do you support the President's budget request to eliminate special national job training projects, including $4 million currently spent for national contracts with organizations serving the handicapped?

Mr. POSNER. I am really not familiar enough with that.

Mr. KOMAREK. Mr. Chairman, if I could elaborate a little bit. The route we have embarked on with this pilot and demonstration account is very basically to try to convince the States that it is now time for them to pick up these particular activities, that these were good demonstrations, we think they were successful demonstrations. We think that because of this that many of our States might indeed be willing to pick up these very programs and run them at the State level and increase emphasis on these programs on the State level rather than maintaining them at the Federal level.

Senator WEICKER. Well, you dropped a full percentage point from under CETA to JTPA, from 8.3 to 7.3.

Let me say I think anybody who has had any familiarity with the historical record in this area, as far as the handicapped are concerned, I wouldn't rely too much on the States to pick up these programs. They haven't been picked up in the past, which is the reason why the Federal Government got into the area a long time back.

Mr. KOMAREK. I think Mr. Posner outlined the approach. Obviously, Mr. Chairman, we have many, many competing groups who would like a share of the Job Training Partnership Act. I think a real key is the efficacy of our promotional efforts which try to assure folks at the local level that these are good programs. The Department does believe the programs that were operated on the pilots and demonstration account were and are very good programs. There is no question about that.

DOL EMPLOYEE UNION

Senator WEICKER. One last question. I have other questions I will be submitting to you for response to the record.

According to a press report this morning, the union representing Labor Department employees is asking the inspector general to investigate whether management is willfully pressing frivolous and disparate charges against its employees. What is your response to this allegation?

I am referring to an article in the Washington Post this morning.

Mr. KOMAREK. I know you will find this hard to believe. We feel that article in the Washington Post is somewhat misleading. [Laughter.]

The implication in the article is that management is trying to, if you will, financially bankrupt the union by invoking arbitrations, which are costly things to do. As a matter of fact, Mr. Chairman, according to our union contract, article 14, section 8, only the union has the right to invoke arbitration. Management does not have the right to invoke arbitration as per our contract. So the union really has the choice of getting involved in these costly arbitration hearings.

I think what the union is driving at in the complaint, which doesn't quite come out in the article, as Mr. Eckhardt is quoted in the article as saying, employee grievances have increased substantially in the last year because of growing numbers of negative performance evaluations. That is really the crux of the problem, Mr. Chairman. The union I think erroneously believes what is called a fully successful rating, which is the rating which most people get, is a negative performance evaluation.

The reason for this, Mr. Chairman, is that for years and years in the Federal Government everybody was rated as outstanding. We all know that is not the case, that in fact most people are good, solid performers, not outstanding.

What the union is finding, is that when their employees get fully successful ratings, a good rating, a lot of these employees are unhappy and they insist on pursuing this all the way through the grievance chain, all the way up through arbitration, which is a very, very costly step.

What is happening is the union folks are driving the unions to invoke a lot of arbitrations, which obviously what the union would like management to do is agree with them in every case. But as you know, Mr. Chairman, in any sound labor-management relationship, that doesn't always happen.

Senator WEICKER. Has this matter been placed in your hands, Mr. Hyland?

Mr. HYLAND. No, sir; not as of 9:30 this morning.

Senator WEICKER. Senator Proxmire?

PRODUCTIVITY IMPROVEMENTS

Senator PROXMIRE. Mr. Komarek, in your prepared testimony you refer to savings of $93,000 from productivity improvements. On Tuesday we were told that the Department's productivity increased by 11.7 percent in the most recent year for which data are available.

Eleven percent of a $100 million budget should be about $11 million, but you mention $93,000. In other words, you are citing 1 percent of the savings that Tuesday's testimony would suggest we should be getting. Do you see my problem?

Mr. KOMAREK. Yes, sir. The 11.7-percent reduction applies to the difference between 1982 and 1983. Basically when you look at it, because of your questioning the other day, I went back and double checked these figures, and what was happening in those years and is happening even now, and I heard you ask Mr. Zegeer a related question, is the Department able to maintain their existing level of inspections, for example, their existing level of grant awards, with decreasing numbers of employment?

As I noted earlier, the number of people in the Department of Labor has decreased some 25 percent since 1981.

Senator PROXMIRE. Why do you only attribute $93,000 to productivity improvements then? If you have a decreasing number of people, it seems to me you should be saving much more than $93,000 out of a $100 million budget.

Mr. KOMAREK. What we have been able to do, Senator Proxmire, is reduce employment by 25 percent in 4 years and maintain productivity. What that particular line item in the budget refers to, Senator, is a proposed A-76 study within my organization. It is not an intent to reflect the total amount of productivity improvement in the Department.

Again, as Mr. Zegeer reported to you earlier, he feels he can maintain inspection levels with somewhat fewer staff. That is where you would accumulate all of this productivity.

Senator PROXMIRE. When you measure productivity, you are talking about less than one-half of your operation and you are measuring a smaller proportion in 1984 than you measured in 1983. I think there is a decrease to measuring only 41 percent of your operations which show the 11.7-percent improvement.

In other words, the 11.7-percent productivity improvement figure doesn't apply to the whole Department. If you applied the figure to the whole Department, you would cut it by more than one-half, and end up with a 3.5-percent productivity increase.

Mr. KOMAREK. Mr. Chairman, I would like to proudly state I think the Department of Labor is functioning better today with 25 percent fewer staff than we had in 1981. From my way of thinking, that is a real solid 25 percent productivity improvement over 4 years.

Senator PROXMIRE. Well, that can be interpreted in all kinds of ways. I am sure there are lots of people who disagree with your statement.

Mr. KOMAREK. Yes, sir.

COMMITTEE ON PRODUCTIVITY

Senator PROXMIRE. Last year I asked whether the Department intended to reactivate a Committee on Productivity and the Quality of Working Life which was established to assure that productivity was considered in the development of departmental policy. The Grace Commission report pointed out that the last committee meeting was held on November 7, 1980.

Mr. Komarek, you replied that the committee was deactivated because its emphasis tended to be on items which were not really productivity related. When I asked why the committee couldn't be continued but redirected, you indicated that the whole productivity program was being reassessed and that the reactivation of the committee would be given serious reconsideration as part of the reassessment.

Mr. Komarek, can you give us the results of that reassessment and tell us if the committee is going to be reactivated?

Mr. KOMAREK. Senator, I am keeping this particular committee in place at this point in time. We have not had any meetings of this committee in the last year, intentionally so. What we have been focusing on is the A-76 study which you referred to.

Senator PROXMIRE. You haven't had any committee meetings since November 7, 1980. The last meeting was held before this administration took office.

Mr. KOMAREK. Yes, sir. I think I addressed this question just about 2, 3 weeks ago. One of my staff people wrote me a paper and asked if I wanted to reactivate this committee. There is coming from the Office of Management and Budget a proposal which was briefly touched upon I believe in that famous gray book which has been delivered up here about the management initiatives by the administration. OMB, I think, is going to propose to the Congress very shortly a Governmentwide productivity program. Quite frankly, what I am doing at this point in time is trying to figure out how we are going to interact with that program. But there is no lack of interest in the Department of Labor in improving productivity.

OIG REPORT ON BLOCK GRANTS

Senator PROXMIRE. Mr. Hyland, in your latest semiannual report you were rather critical of the administration of Federal grants to State and local governments. The report stated that "substantial amounts of Federal funds are not subjected to the uniform administrative requirements or cost principles contained in the OMB circulars."

Your report also pointed out that your audit of systems development in the Job Training Partnership Act Program found many instances where adequate administrative standards had not been established by the States.

I wonder if you would care to elaborate on the problem and tell us what steps your office is taking to deal with the situation.

Mr. HYLAND. What we are really discussing here, Senator, is the lack of uniform financial accounting by the States and the grantees. In a sense, the Single Audit Act put the auditors in front of the accountants. You can send out the auditors, but if the accounting systems are such that you cannot properly audit them, it makes it very difficult. For example, in some of the programs we deal with, such as the former CETA Program and now with the JTPA, some of the grantees think that a check disbursement book is all you need.

We have a committee that was established among the inspector generals, and we are meeting with the American Institute of CPA's to try to encourage the institute to apply some uniform accounting standards. Hopefully that will help resolve the problem.

Senator PROXMIRE. I understand you say in your report that approximately $3 billion in funds granted to the States under the Job Training Partnership Act are not subject to A-102's uniform administrative requirements because OMB views the JTPA Program as a block grant. Yet it is not a block grant according to your finding.

Mr. HYLAND. That has been changed, sir, with the Single Audit Act.

BLACK LUNG CASE BACKLOG

Senator PROXMIRE. Mr. Komarek, an October GAO report estimated that given fiscal year 1984 staffing levels, your Office of Administrative Law Judges could take over 35 years to reduce its black lung backlog. However, your decision to cut this backlog by contracting with retired judges could reduce the backlog to reasonable levels within 9 years. Even that seems like a very long time to resolve the problem. Can't we do any better than that?

Mr. KOMAREK. Yes, sir, Senator, I think we are. I would like to have Judge Litt, Chief of the administrative law judges, elaborate on my answer.

Just before this meeting I was talking with the judge and he reported to me that the production at the administrative law judge office is exceeding what the GAO folks thought it would be. I don't brag about this, but the backlog is less than 4 years.

Senator PROXMIRE. Even 4 years is pretty painful for the people who are waiting for their benefits.

Mr. KOMAREK. We are very sensitive to this, Senator. We have done quite a few things—again I will let the judge elaborate in a second—to try to bring that backlog down. We are making some progress. But basically, as we reported to you in this hearing room last year, what we are reacting to still I think is an increase in cases being filed as a result of the 1978 amendments to this particular law. Could I have Judge Litt speak to this?

Senator PROXMIRE. Certainly.

Judge LITT. We currently are running roughly 7,000 cases annually in dispositions, which is well in excess of the 5,900 we thought we would be able to do in fiscal year 1985. The current disposition level would bring the number down to well below the 4-year level that you referred to, Senator.

The 9-year level which GAO was using means any case which would be in hand beyond the 1 year work in progress number at any time. So it is somewhat misleading.

Senator PROXMIRE. Is there any sensible economical or efficient way we could speed the adjudication process up so the backlog wouldn't be 3 or 4 years as it seems to be now?

Judge LITT. We are attempting to speed up the system through a borrowed judge program from other agencies, which has certain problems in it. We have sped it up already by hiring additional law clerks on a contractual basis to help the judges dispose of cases.

Our problem with the borrowed judge program is the law governing appropriations, where you have agencies with underutilized resources, but they cannot make them available to the Department without reimbursement.

We also run into serious problems with agencies that do not wish to admit that they have underutilized resources of administrative law judges because of the budget process.

Senator PROXMIRE. Last year at this time the Department told us that they estimated your administrative law judges would face a black lung backlog of 11,186 cases at the end of 1984 and 10,930 cases at the end of 1985. The actual 1984 backlog was 15,042 cases and the new 1985 projection is 15,142 cases. In other words, the backlog seems to be growing, not declining.

Judge LITT. This is based upon projections that were originally made of the number of cases that would be requested to be referred to the Office of Workers Compensation.

Senator PROXMIRE. The 1984 figure is not a projection. That is an actual figure.

Judge LITT. That is correct.

Senator PROXMIRE. The final 1984 figure was 15,042 cases. The projection was wrong. The projection was 11,186 cases.

Judge LITT. The error is that we are attempting to predict the number of referrals that will be requested and will be filed. The predictive levels I think have been relatively good, but they have been under consistently for several years. We hope in the coming years we can get a little better.

The fact is that my office is only receiving cases that are referred, and we do not and cannot make accurate predictions of the number of cases where hearings will be requested by either unhappy mine owners or claimants.

Senator PROXMIRE. I understand that. The situation is ominous. It seems to be getting worse rather than better.

I think you have done a heroic job under very tough circumstances. I don't mean to criticize you. It is a very good idea to bring in outside judges. Obviously, the backlog is much better than the 35 years GAO projected. But I think it would be helpful if you could give us some notion of options that would be available, together with the cost of such options, to get the job done, because some of these people won't live until their claims are settled. Three or four years is probably more than a lifetime for many of them.

Mr. KOMAREK. Senator, the Department certainly will be glad to. Last year when we were before this committee our biggest problem was in the Benefit Review Board. I am pleased to report that because of congressional action last year, in appropriating an additional 53 positions in that program and allowing us to expand the board, the backlog there is down to 1.4 years. So we are making some progress. I think working together we can certainly improve things.

WAGE-HOUR AND CONTRACT COMPLIANCE LITIGATION

Senator PROXMIRE. Let me pursue just one other matter in the same area.

Last year at this time you estimated the Office of the Solicitor would have 6,035 wage-hour and contract compliance litigation cases pending at the end of 1984 and 4,976 cases pending at the end of 1985. Your most recent figures are 7,435 such cases actually pending at the end of 1984 and an estimated 7,862 cases pending at the end of 1985. In 1986 that backlog would increase to 8,278 cases.

The statistics you include in this year's justification also indicate you will be deciding fewer wage-hour and contract compliance cases than you projected last year—5,958 estimated decisions in 1984 compared to an actual figure for that year of 3,673 according to your latest justifications.

The figures make it appear that you are losing control over your wage-hour and contract compliance litigation caseload. Is that in fact happening?

Mr. KOMAREK. I would ask our Solicitor, Frank Lilly, to address that question.

I do not believe that is the case, Senator. We are very concerned about these backlogs in all areas. We are working very hard on them. I think we can make some progress. We are looking to make progress in all of these areas.

Frank?

Mr. LILLY. I would only add, Senator, that I think the backlog grows as more cases continue to come in. We are devoting as many resources as we have available to it. I think a fair amount of those will be resolved by the fact that we have a little more guidance now with regard to the National League of Cities issue from the Supreme Court.

Senator PROXMIRE. You are not deciding as many cases as you thought you would, though. You are deciding fewer.

Mr. LILLY. The rate of decision I think is lower than before, but that has something at least to do with the complexity of the cases.

Senator PROXMIRE. Can you tell us how long it takes you to litigate a wage-hour case currently as compared to 1980?

Mr. LILLY. I can supply that for the record.

[The information follows:]

LITIGATION OF WAGE-HOUR CASES

In 1981, it took 25.8 hours to conclude a wage-hour case while in 1984 it took 30.3 hours to conclude a wage-hour case. This data is for all cases concluded: not only cases that go to trial but also those that are settled or closed for other reasons.

MINORITY EMPLOYMENT

Senator PROXMIRE. Mr. Komarek, last year we were told that although 43.4 percent of the Department's employees were women, only 18.2 percent of the Department's GS-12 and above level jobs were held by women as of September 30, 1983. That is a slight improvement over a 1982 figure of 18 percent.

Can you tell us the percentage of GS-12 and above slots held by women as of September 30, 1984, and what steps you intend to take to improve the situation?

Mr. KOMAREK. Senator, I can provide you the exact tally for the record.

I did note in this regard that the number of females and minorities has increased in percentage of the total departmental population by between 1 and 2 percent in the last year. So we are making some progress.

It is a matter of concern to us, Senator. We are continuing to work on it and we will certainly be glad to supply you the exact information for the record.

[The information follows:]

DOL MINORITY EMPLOYMENT

As of September 30, 1984, women held 18.2 percent and minorities held 18.6 percent of GS-12 and above level jobs. The Department of Labor has in place affirmative action recruitment plans for all its agencies. It is through these plans that we will try to recruit minorities and women where there is underrepresentation.

PERCENTAGE OF MINORITIES DROPPING IN GS-12 AND ABOVE JOBS

Senator PROXMIRE. Last year you indicated that minorities comprised 28.8 percent of the Department's work force and held 18.8 percent of the GS-12 and above jobs. That is a better showing than before. But I am bothered by the fact that the percentage of minorities holding jobs at the GS-12 and above level dropped from 19 percent in 1982 to 18.8 percent in 1983. That is going in the wrong direction.

Do you have plans to reverse that trend?

Mr. KOMAREK. Yes, sir. We continue to work on that problem. One of the reasons for that drop, Senator, was because during these years we have run several reductions in force in the Department. Unfortunately, with the existing reduction-in-force rules, it is very, very difficult to protect women and minorities because typically they have gotten into those kinds of positions last. When there is a RIF, they are not veterans and they are typically the first ones to go.

I know there has been a lot of criticism on the Hill of Mr. Devine's proposal for revised RIF rules, but I quite frankly am hoping on October 1 of next year—I believe that is the date—they would be allowed to go into effect.

The advantage of these new RIF rules would allow management to have a little more discretion in terms of which individuals were impacted in the reduction in force. Typically they allow us to consider something which we all endorse: performance. I think that would be a step forward.

Senator PROXMIRE. I would hope your RIF rules would also allow you to consider sex discrimination and race discrimination. You just told me that one of the reasons you are having this difficulty is because minorities and women are the last on the job and, therefore, the first RIFed.

Mr. KOMAREK. With the existing RIF rules, Senator, the RIF process is designed to be very, very blind. My experience is that we probably would have an improvement in the impact of RIF's on women and minorities if a performance-oriented RIF system was introduced because I would suggest that women and minorities in every case perform as well, in some cases better than average. If we could utilize a performance-driven reduction-in-force approach rather than a seniority-driven reduction-in-force approach, I think that would have a favorable impact on women and minorities in higher-level jobs.

Senator PROXMIRE. Thank you, Mr. Chairman.

QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator WEICKER. Thank you very much.

There will be further questions for response to the record.

Mr. KOMAREK. Thank you, Mr. Chairman.

[The following questions were not asked at the hearing but were submitted to be answered for the record:]

QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

TEAMSTERS INVESTIGATION

Question: I understand the Labor Department has reached a settlement in the long-standing Teamsters Central States Pension Fund case. What can you tell us about the terms of the agreement?

Answer: The Department secured two important consent decrees in our litigation involving the Teamsters' Health and Welfare Fund, the estate of the late Allen M. Dorfman, and his companies and associates. One decree imposes the same safeguards, including the requirement of a named fiduciary for the Fund's assets and former Attorney General Saxbe as independent special counsel, as we obtained in the historic September 1982 consent decree put five of Dorfman's companies out of business, barred two of his associates from ever dealing with employee benefit plans, and resulted in $6.4 million in additional restitution to the Teamsters' Health and Welfare Fund. This brings our total recoveries in the Teamsters' Central States Cases in the last year to over $17.5 million.

CONTRACTS CLOSE-OUT BACKLOG

Question: Labor has been spending over $500 million annually for goods and services provided by contractors, primarily for the operation of the Job Corps program and acquisition of ADP resources and services. Over the last few years, Labor has acknowledged a number of problems with its procurement operations. One such problem previously reported involves a backlog of contracts that had not been closed out. Does the Department currently have a backlog of contracts to be closed out? If so, what are the number and dollar value of contracts that constitute the backlog and what is Labor doing or planning to do to reduce the backlog? Who in the Department is responsible for contract close-outs?

Answer: The closeout of contracts has been an area of increased management attention over the last year. Under the direction of our Procurement Executive, who has overall closeout policy responsibility, we have initiated a total review of this administrative function. The objective of this analysis has been to streamline the current procedures to increase the efficiency of our system, and to standarize the approaches of our various contracting offices to eliminate confusion among our contractors. This project is scheduled for completion by the end of June of this year.

The actual closeout of DOL contracts is the responsibility of the contracting officers in OASAM, ETA, and MSHA. Staff assigned to these offices are addressing current workloads, and any backlogs that are generated are being handled in a routine manner. The only exceptions to this situation are: (a) a total of 175 inactive contracts, with a dollar value of approximately $125 million, that are included in the workload of the OASAM closeout unit, and (b) a recent legal issue raised in the closeout of ETA contracts relating to the term "final agency action" that is delaying action on recently received closeout packages. We anticipate that this latter situation will be resolved once several internal concerns are addressed. At that time normal operations will be resumed.

INTEGRATE ADP SYSTEMS FOR BENEFIT PAYMENT PROGRAMS

Question: As part of a study on how to improve the Federal Employees' Compensation Act (FECA) program computer operation done for the Department, the Mitre Corporation suggested that an improved FECA ADP system could handle other Departmental benefit payment programs in addition to FECA. Integrating computer operations for Labor's benefit payment programs would eliminate the need to design and operate separate ADP systems for these programs. The Grace Commission also recommended that Labor generally centralize its ADP resources. What efforts does Labor have underway to integrate the ADP systems for its benefit payment programs and when do you expect an integrated system will be implemented?

Answer: It is the intent of the Office of Workers' Compensation Programs (OWCP) to integrate the computer operations within OWCP to the extent possible. The planning for this effort began in FY 1982 using the Level II ADP system as the basic instrument. The Level II system, currently being designed for the Federal Employees' Compensation (FEC) program, will integrate automated functions, manual procedures, and organizational structures into an overall system approach. This system is scheduled to be implemented in FEC district offices and the FEC National Office in FY 1986.

Once the system is fully implemented in FEC, work will continue on integrating functions of the Division of Coal Mine Workers' Compensation into the Level II system. Full integration of the Black Lung Program into the Level II system is scheduled for 1990. The Longshore system will be integrated into Level II to the extent it can be or is needed. The Longshore ADP system being developed is designed to be compatible with the Level II system. The current Level I system for FECA also supports the data systems for the Wage Hour Division and the Office of Federal Contract Compliance Programs within the Employment Standards Administration (ESA). The Level II system is also designed to support all ESA programs when it is completed.

REDUCTION IN GRADES 11-15

Question: OPM and OMB have initiated efforts to reduce by 2 percent annually for 5 years the number of positions in grades 11 to 15. What steps are the Department taking to implement this (GS/GM 11-15 project) initiative and what results have been accomplished to date?

Answer: The Department in January 1984 established a high level taskforce composed of Agency Administrative Officers which was responsible for developing a DOL-wide strategy for dealing with the GS/GM 11-15 reduction project.

The taskforce developed a workplan which identified four areas where the Department would take action to control the growth in GS/GM 11-15 positions. The four areas and the status of each initiative are listed below:

- Each DOL Agency was required to review its current position management (PM) practices against the formal PM criteria contained in the Department's guideline, DLMS 3-2000. During the April/May 1984 timeframe each DOL Agency was required to review its Position Management Program to assure that it complied with the Department's program. Each Agency also analyzed its position organization structure to identify areas where corrective actions could be taken to reduce the number of GS/GM 11-15 positions. By the beginning of FY 1984 each major DOL Agency had in place a Position Management Program which mirrored the Department's program. Annual and quarterly PM assessment reports are provided to each Agency Head which identify potential PM problem areas. In addition, Agency and Regional Personnel Offices conduct periodic Position Management/Position Classification surveys to assure that DOL managers are actively applying the PM/PC guidelines, particularly those relating to GS/GM 11-15 positions, GS/GM 14/15 positions, overhead positions, and supervisory ratios.

- Each DOL Agency was required to analyze its GS/GM 11-15 population to identify areas where work could be restructured into lower graded support or technician type positions. Each Agency reviewed its current position organization structure to determine if job restructuring was a viable approach to reducing the number of GS/GM 11-15 positions. After reviewing the Agency responses it was determined that job restructuring would have only limited impact in DOL. The great majority of DOL positions are investigative or compliance oriented (11,000 out of 18,000 positions) and require a high degree of skill and knowledge to perform the oversight and investigative responsibilities delegated to them. In addition, another 3,000 positions are involved in economic research, statistics, and training and employment programs requiring unique educational requirements or experience.

Due to the complexity of the Department's mission, the full performance (journey) level for DOL's professional jobs is at the GS-11 or GS-12 grade level. Thus, only a small number of DOL positions are candidates for job restructuring (the Agency estimated about 100 jobs Department-wide).

- Each DOL Agency was required to review its career ladder promotion policies and practices to determine if there is any relationship between career ladder promotions and individual performance. The Department reissued in June 1984 and gave new impetus to its formal policy governing career ladder promotions. The policy requires that such promotions be directly related to demonstrated ability to perform satisfactorily in the career occupation. A formal monitoring system to track career ladder promotions and relate them to individual performance was implemented on October 1, 1984. Quarterly reports are prepared by the Directorate of Personnel Management, OASAM, which analyze all of the career ladder promotions during a quarter to determine if there is some relationship between the timing of promotions and individual performance. The purpose of the monitoring system is to exercise some control over career ladder promotions so that DOL can avoid situations where career ladder promotions are automatic regardless of performance. DOL policy discourages automatic career ladder promotions since such a practice can be extremely costly, can lead to grade escalation and misclassified jobs, and will eventually contribute to the "bulge" or growth in the GS/GM 11-15 population.

- Each DOL Agency was required to review its hiring practices and make every effort to hire at the entry level. The Department issued its revised "Staffing Strategies" (PMS to FPM Chapter 250)'in December of 1983, which outlines the Department's policy regarding entry-level recruitment and hiring. In addition, the Department has in place a workforce planning function which analyzes the Department's recruitment and hiring practices, identifies shortages in occupations, analyzes turnover statistics and employment profiles (e.g., age of workforce, average length of service, etc.).

Although DOL Agencies have made every effort to hire at the entry level, the absence of the PACE has made entry-level hiring for professional and administrative career positions difficult. The Agencies in their GS/GM 11-15 workplans estimated that about 200 positions could be assigned to be filled at the entry level in the next three years.

Training sessions were conducted regarding college recruiting and hiring alternatives when filling PAC positions. These sessions emphasized the benefits of hiring at the entrance level. A CO-OP Program Seminar was conducted for managers stressing the use of the program as an alternate hiring method for filling vacant positions. In addition, a "Matrix of Alternative Hiring Authorities" at the entrance levels was developed and issued to personnel offices.

IMPACT ON GRADE REDUCTIONS IN AGENCIES

Question: "What impact has the grade reduction had on the component Agencies ability to retain and acquire staff with necessary skills to perform their missions?"

Answer: During the 1981 to 1984 timeframe, the Department of Labor's full-time employment declined from 20,202 to 16,305 or by 3,897 positions. Of the overall decline, 1,345 positions were in the GS/GM 11-15 band (and 376 of those were at the GS/GM 14/15 level); 2,552 were GS 1-10 positions. Since the start of OPM's GS/GM 11-15 monitoring program (March 31, 1984), the Department's GS/GM 11-15 population has declined by 430 positions.

The large employment loss at the lower grade levels reflects the adverse affect of reductions in force and employment ceiling limitations. As in most cases of RIF or hiring freezes, the younger employees, generally at the lower grade levels, and having the least seniority, are separated. In the same light, the turnover rate tends to be higher among employees targeted for RIF who have less invested in their Federal career. Rather than face the possibility of being released and have to compete in a disadvantageous job market, they start job hunting in expectation of a pending RIF.

With regard to our professional, administrative, and technical positions (two-grade interval positions), the RIF's and hiring freeze effectively eliminated virtually all entry level employment, while those on-board progressed through the career ladders to the journey-level (GS-11/12). Furthermore, to maintain service to clients and maintain program integrity and effectiveness, available personnel were shifted to line operations, and to the extent possible, support positions were reduced to meet the lower employment levels.

In summary, GS/GM 11-15 employment reductions were moderated by management's attempt to retain the strongest possible professional workforce. Additionally, the decline in GS/GM 11-15 positions was somewhat offset by career ladder progression into the GS/GM 11-15 band.

STUDIES ON IMPACT OF GRADE REDUCTIONS

Question: "Have any studies been done at the Department of Labor to determine the long-term impact of such grade reductions on mission accomplishments?"

Answer: DOL has a comprehensive program of Position Management, Position classification, and Workforce Planning Studies conducted on a quarterly and annual basis which regularly assess the overall "health" of the Department in terms of average grade statistics, numbers of GS/GM 11-15 positions, GS/GM 14/15 positions, supervisory ratios, administrative and clerical support ratios, overhead positions, career ladder statistics, and employment data by major occupational series. At this time, it would be difficult to determine the long-range impact of such grade reductions.

Furthermore, the composition of the workforce in DOL continues to change to meet the oversight requirements of new legislation (e.g., JPTA), expanded authority (e.g., Mine Safety and Health, and Federal Contract Compliance, which combined, added more than 4,000 positions to the Department in 1978 and 1979), and increased public demand for information (e.g., Consumer Price Index, unemployment statistics, collective bargaining impact, etc.). The shift toward automation and away from production-oriented clerical and technician-type positions will continue in DOL as our mission becomes more complex. This will have a direct influence on the types and grade levels of individuals recruited by the Department.

AUDIT DISALLOWANCES

Question: In your semi-annual reports for fiscal year 1984, you reported recommending that about $120 million in costs claimed by grantees and contractors be disallowed as a result of audits. How much of the $120 million you recommended for disallowance was actually recovered? What are the reasons for any differences between the amount recovered and the amount recommended for disallowance?

Answer: In FY 1984, OIG recommended disallowance of $270.9 million, of which the program agencies have disallowed $122.5 million. In FY 1984 $20.6 million was recovered. However, the pipeline for collecting audit-related debts is about 18 months for the appeals process and up to an additional year for debt collection. This protracted cycle means the amount recovered in FY 1984 did not relate to the amount disallowed in 1984 ($122.5 million), but to amounts disallowed in earlier years (e.g.: $7.7 million in FY 1983 and $63.1 million in FY 1982).

The reasons for the differences between the amount of auditors' exceptions, the amounts disallowed by the program agencies and the amounts actually recovered are explored in depth in GAO's report entitled "Audits of Federal Program: Reasons for the Disparity Between Costs Questioned by Auditors and Amounts Agencies Disallow," GAO/APND-84-57, August 8, 1984. Among the reasons for the differences are:

- Subsequent to the audit, auditees provide documentation supporting the claim for reimbursement from the Government. In FY 1984, 55% of the auditors' questioned costs were allowed by the program agencies for this reason.

- Of the 45% of questioned costs which are disallowed by the program agencies, 85% are appealed by the auditee to the Administrative Law Judge. As a result, the final recovered amounts relating to the disallowed costs for FY 1984 will not be determined for two and a half years.

PRODUCTIVITY IMPROVEMENT AND RESULTS ACHIEVED

Question: What efforts has each major component agency taken to measure and improve productivity and what results have been achieved?

Answer: For FY 1983 DOL productivity increased by 11.7 percent over FY 1982. Productivity improvement is a high priority initiative in the DOL. Current emphasis is on using OMB Circular A-76 as a technique for improving productivity by obtaining acceptable services at the lowest cost, whether through in-house resources, other government agencies, or the private sector.

PRODUCTIVITY IMPROVEMENT

Question: In May 1984, the Secretary directed (Secretary's Order 4-84) the heads of Labor's component agencies to develop and carry out programs, systems, and activities to measure and improve their organizations' productivity. The Assistant Secretary for Administration and Management was assigned leadership responsibility for guiding and monitoring component agencies' programs. What guidance has been issued by the Assistant Secretary?

Answer: DOL Agencies have had staff of varying degrees of size and sophistication working on productivity measurement and improvement issues over the years. OASAM staff works closely with them and provides advice and technical assistance as required. In terms of formal guidance there is the Department of Labor's Manual Series with a chapter on productivity which is currently being updated to put greater emphasis on productivity improvement.

PRODUCTIVITY IMPROVEMENT OBSTACLES

Question: What monitoring effort has been carried out by the Assistant Secretary and what obstacles to improving productivity have been identified?

Answer: OASAM staff has been working closely with counterpart staff in the component agencies to (1) identify in-house activities, particularly in the fourteen functional areas specifically identified by OMB for consideration, and (2) to schedule them for management efficiency reviews. The results will be monitored by OASAM and reported in "Reform '85," which is a department-wide effort to achieve, through management improvement initiatives, savings necessary to achieve budget reductions. The OMB Circular A-76 program is a proven technique, but the lack of adequately trained staff to implement its provisions has been an obstacle to the quick achievement of improvement. Special training programs in A-76 techniques and cost-benefit analysis are underway now.

PRODUCTIVITY IMPROVEMENT REWARDS

Question: How are component managers held accountable for and rewarded for improving productivity?

Answer: DOL managers are encouraged to establish organizational and individual performance standards which would make them responsible for and accountable for meeting specific productivity improvements. The current performance appraisal system is the basis for granting performance-based awards under the existing incentive awards systems to individual managers and supervisors warranting special recognition for their achievements in productivity improvement.

OIG REPORT ON COMPLIANCE AUDIT PROGRAM

Question: Mr. Hyland, nearly a year ago, you advised the Secretary of Labor that the Compliance Audit Program (CAP), used to detect serious civil and criminal violations of the Labor-Management Reporting and Disclosure Act, has not proven effective. Earlier this week, Ronald St. Cyr, Acting Assistant Secretary for Labor-Management Standards, disagreed with your conclusions and defended this program. Do you think there is a disproportionate allocation of resources on Compliance Audits that could be more effectively used elsewhere?

Answer: A year ago, when the Secretary announced his plans to transfer PWBP from LMSA, we advised him that the Office of Audit had devoted significant efforts to evaluate the effectiveness of LMSA's organizational structure, enforcement strategy and enforcement results.

The Compliance Audit Program (CAP reviews) referred to in your question was one of LMSE's (now OLMS) major enforcement tools. As a result, LMSE had devoted a substantial portion of its field staff to these CAP reviews. CAP is a 5-day review of union records intended to detect LMRDA embezzlement and other violations. Similarly, ICAP reviews refer to these reviews on international unions.

We advised the Secretary that the Compliance Audit Program had not proven effective. Since the inception of CAP in 1980, LMSE's statistics indicated that of the 2,701 CAP audits of union funds conducted through September 30, 1983, only 41 convictions (2 percent) had resulted by February 1, 1984. In addition, only 19 other cases had been referred to the offices of the United States Attorney for possible prosecution, and 2 other cases were awaiting trial. Furthermore, while CAP uncovered other violations of LMRDA, enforcement follow up was not sufficient for problems to be corrected.

Moreover, related embezzlements totaled only about $500,000 (all covered by bonding), compared to the millions spent on CAP audits. We found that CAP reviews were instituted without LMSE first adequately evaluating the need for a criminal detection program, or testing its effectiveness. We concluded that LMSA's existing enforcement systems and procedures were so flawed as to reduce their oveall effectiveness to minimal levels.

At the time of our audit work, there was a disproportionate allocation of resources between LMSE and PWBP which required review. LMSA assigned approximately half its staff to enforcement of LMRDA and half to enforcement of ERISA; however, a comparison of potential financial risk factors indicated that the PWBP financial risks were much greater.

The FY 1984 budget for LMSE had totaled $22 million with a staff of 463 while the PWBP budget was $29 million with a staff of 501. In comparing the risks, LMSE coverage involved approximately $6 billion in assets, 51 thousand entities and 22 million members; whereas PWBP covered $433 billion in assets, 500 thousand entities and 53 million members. The workload trends showed that memberships under LMSE were decreasing and total assets would most likely remain unchanged. For PWBP, memberships will increase, assets will be up about 13% per year, and the contingent liability will be substantial.

Because our findings were presented in detail to the reorganization task forces, and other priority audit areas warranted our attention, the Office of Audit has not yet performed a follow-up review to determine whether appropriate corrective action has been taken. However, we plan to initiate follow-up work during late FY 85.

CUT IN INSPECTOR GENERAL AUDIT FUNDS

Question: Your are asking Congress to rescind $3,766,000 in Fiscal 1985 audit funds, and then make a further reduction of nearly $6 million in the Fiscal 1986 budget for the Office of Inspector General. Will this result in termination of any on-going audit contracts?

Answer: Although it will be necessary to reduce most contracts to the minimum guaranteed levels required by the contracts, no audit contracts will be terminated in FY 1985 as a result of the rescission. For FY 1986, based on the proposed budget, a limited number of contracts will be awarded for smaller amounts.

OIG DEFICIT REDUCTION ACT DECREASES

Question: How much is the Inspector General's office cutting each of the following five categories specified in the 1984 Deficit Reduction Act: travel; consultant services; public relations; publishing; and operations/maintenance/disposal of motor vehicles?

Answer: Reductions for the Office of Inspector General in the five categories are:

Travel	$ 613,000
Consultant (audit contract) Services	3,047,000
Public Relations	---
Publishing	32,000
Operations/Maintenance/Disposal of Motor Vehicles	41,000
Total	$3,733,000

HANDICAPPED SERVICES

Question: Early reports seem to indicate that the handicapped are not being served under the Job Training Partnership Act to the same extent they were under its predecessor legislation. Last year I asked what specific efforts you are making to bring Governor's Committees' policy recommendations to the attention of the Administration. Can you give me a rundown of such recommendations you've transmitted over the past 12 months?

Answer: During the past 12 months the Governors' Committees have submitted no policy recommendations to the President's Committee to be brought to the attention of the Administration.

SOLICITOR'S OFFICE

Question: In April, 1984, a complaint was filed with the Secretary of Labor concerning election of officers in District 1199, New York Health and Hospital Care Employees. The law requires the Secretary to file suit within 60 days of receipt of a complaint, if warranted. Legal action has apparently been delayed because the union has failed to cooperate with the Department's investigation. Without getting into the merits of this particular case, I am concerned about general issues raised by the maxim "Justice delayed is no Justice". How long will the Labor Department permit stalling tactics to keep it from proceeding with a formal complaint in union election disputes?

Answer: Stalling tactics are not tolerated by the Department and are reacted to in a timely fashion by issuance of and, if necessary, enforcement of an administrative subpoena to obtain all records necessary to the investigation. Section 402(b) of the Labor-Management Reporting and Disclosure Act of 1959 (the Act), 29 U.S.C. 482(b) is the statutory basis which authorized the Secretary of Labor to investigate timely filed administrative complaints, alleging violations of Title IV of the Act. If the Secretary finds probable cause to believe a violation has occurred, he shall institute a civil action within sixty (60) days of receipt of the administrative complaint. Id. In the vast majority of cases, the Department does file within this sixty-day statute of limitations. However, in three very limited situations, the filing period may be extended.

The first of these situations (and the most common) occurs when the union, which is the potential defendant, seeks to waive the sixty-day suit-filing period in order to negotiate a possible settlement. This approach has been endorsed by the courts as being in the interest of quicker and less abrasive resolution of election disputes. Hodson v. International Printing Press and Assist. Union, 440 F.2d 1113, 117 (6th Cir. 1971).

The second situation in which suit may not be filed during the sixty-day period occurs when the Department is unable to complete its investigation in sufficient time to meet the filing deadline, as a result of the particular demands of an investigation of a national union election, involving a large number of locals and complainants dispersed over a broad geographic area.

The third and least frequently occurring situation for delay in suit-filing results from the union refusing to cooperate with the investigation. Under these circumstances, the Department is forced to seek compliance with its investigative demands through collateral litigation, which can consume several months. The case of Donovan v. District 1199, New York Health and Hospital Care Employees, Retail Wholesale Department Store Union, AFL-CIO, M-18-304 (S,D, N.Y,) provides such an example. In this case, the Deprtment initiated proceedings to enforce an administrative subpoena duces tecum on January 22, 1985. Following a hearing held on February 5, 1985, the district court ordered District 1199 to comply fully with the subpoena by February 13, 1985. The union refused and instead filed an emergency appeal with the Second Circuit. Although this apppeal has been placed on a expedited schedule, it will not be heard until the week of March 25, 1985, and we do not know when a decision will be issued.

SOLICITOR'S OFFICE

Question: Is there some defect in the law that prevents the Labor Department from moving swiftly in such cases?

Answer: We believe that the law in its present state promotes the swift and efficient enforcement of internal union election complaints. As noted above, the vast majority of civil suits based on such complaints are brought within the sixty day statutory period or within the time allotted by voluntary waiver agreements, without resort to collateral litigation. As a general proposition, delays occur only when the union refuses to cooperate with the Department's investigation. In point of fact, during fiscal years 1982, 1983 and 1984, the Department has filed only one such enforcement action. In cases where the union refuses to cooperate, the Secretary is vested with the same subpoena power as that possessed by the Federal Trade Commission under 15 U.S.C. 49-50. The delay incurred in exercising this power is engendered by resort to, and inherent in, the judicial process, as even expedited litigation can last several months. In sum, most delays involving election dispute cases do not stem from a defect in the law, but rather, are the result of having to enforce the law through collateral civil litigation, *i.e.,* subpoena enforcement proceedings in the federal courts.

SOLICITOR'S OFFICE

Question: *What options are available to the Labor Department in cases such as this?*

Answer: The Department has two options where the union refuses to supply the requested information. First, it can choose to follow its current practice of delaying institution of a Title IV civil action until it has achieved full compliance with its investigative demands and has had the opportunity to conduct a comprehensive investigation. In the alternative, the Department could file a Title IV action based on whatever information has been provided voluntarily, and contemporaneously file an application for subpoena enforcement. We believe the second option is less viable for several reasons. As previously stated, the statute provides that the Secretary shall file a civil suit within sixty days of receipt of an internal union complaint if his investigation reveals there is "probable cause" to believe that violation has occurred. 29 U.S.C. 482(b). If the Department is unable to investigate the complaint as a result of union intransigence, it may be difficult, if not impossible, to find the "probable cause" required by the statute to support those aspects of the complaint which require the subpoenaed documents. Accordingly, that aspect of the cases could be dismissed by the court for failure to state a claim upon which relief can be granted under Rule 12(b)(6) of the Federal Rules of Civil Procedure. This strategy would also have the adverse consequence of jeopardizing the Department's subpoena enforcement action, as it would undercut its claim that the requested materials are necessary and relevant to determine whether a violation has occurred.

By contrast, the courts have approved delays in filing suit until completion of the Department's investigation when the delay is caused by the union's refusal to comply with the Department's subpoena. *See e.g., Brennan* v. *Independent Lift Truck Builders Union*, 490 F.2d 213 (7th Cir. 1974). In such cases, the courts have held that the union's refusal to cooperate tolls the sixty-day period set forth in 29 U.S.C. 482(b) until compliance is obtained.

BENEFITS REVIEW BOARD

Question: The fiscal 1985 appropriation included an increase of $1.6 million for 53 full-time equivalent staff for the Benefits Review Board, and provided for expansion of the Board from 3 to 9 members. Can you assure me that these additional resources are being utilized solely for the Board, and not being partially diverted to the Solicitor's Office?

Answer: None of the resources in the FY 1985 appropriation for expansion of the Benefits Review Board have been diverted to the Solicitor's office.

BRB STAFFING BY JOB CATEGORY

Question: Provide for the record a breakdown of how these 53 positions will be utilized, by job category, including separate delineation of the base staffing in the original budget request.

Answer: Below is a listing of Benefits Review Board staffing, by major job category:

	Original FY 1985 Request	Additional Positions
Board Members	3	6
Attorneys	48	35
Paralegal Specialist	10	4
Clericals	34	8
Other	9	--
Total Staff	104	53

BRB HIRING TO DATE

Question: How many of these additional positions have been filled to date?

Answer: To date 15 additional positions have been filled.

REDUCTION IN BRB CASE BACKLOG

Question: When do you expect to be able to reduce the backlogs of pending Black Lung cases?

Answer: Given current workload and productivity assumptions, the Board should begin reducing the case backlog by FY 1986.

MODEL DEMONSTRATION FUNDS FOR FY 1985

Question: Congress appropriated $1 million for the Women's Bureau to conduct model demonstration programs in Fiscal 1985. Specifically, how are these funds being utilized?

Answer: These funds are being used to implement projects that are designed to 1) increase the knowledge base on the employment needs of specific target groups of women and to demonstrate better techniques of outreach to them; 2) evaluate projects which were best for replication; and 3) research issues specifically related to job opportunities for women. Examples of programs are:

-- demonstration of employer-sponsored child care to train disadvantaged single heads of households;

-- improving the job-hunting skills for minority displaced homemakers 35-50 years of age in 8 locations;

-- examining the services to women through JTPA system to determine if they are receiving training in higher paying non-traditional jobs to enhance their self-sufficiency;

-- providing technical assistance to displaced homemakers services on local JTPA implementation and other projects;

-- research that focuses on the issues specifically related to the impact of technological changes on job opportunities for women;

-- developing and implementing a corporate linkage project to educate corporate leaders on career roles and career progression for women;

-- developing a model project to identify and demonstrate how to relate the women's professional, educational, military and voluntary experiences to career transition placement.

FUNDS FOR FY 1985 DISPLACED HOMEMAKERS NETWORK

Question: What portion of these funds will be utilized to continue the Displaced Homemakers Network?

Answer: For FY 1985, the Women's Bureau has earmarked $150,000 of the project funds to be used for the Displaced Homemakers Network.

RATIONALÉ FOR FY 1986 WB PROJECT FUNDS

Question: What is the rationale for only requesting $310,000 for project funds in Fiscal Year 1986?

Answer: The transfer of JTPA funds to state and local governments as well as incentives created by such legislation as the JTPA and Vocational Education Act of 1984, makes it possible for the Women's Bureau to work very closely with state and local governments, community organizations, and the private sector to implement programs and activities that would enhance the employability of specifically targeted groups of working women.

FUNDS ALLOCATED FOR FY 1986 DISPLACED HOMEMAKER'S NETWORK

Question: How much of the $310,000 budget request would be for the Displaced Homemaker's Network?

Answer: The Women's Bureau views its mission as one that will foster research, experimental, demonstration and evaluation projects. Since the Displaced Homemakers Network does not fall within the framework of WB initiatives, funding for the Displaced Homemakers Network was not requested in the FY 1986 budget. However, the Bureau will assist in identifying alternative funding sources for the Network.

SPECIAL CORPS FOR ADMINISTRATIVE LAW JUDGES

Question: Legislation has been introduced to place Administrative Law Judges in a special corps outside the control of the Federal Agencies they serve. Do you think it is necessary to remove Administrative Law Judges from the Labor Department to protect them from possible political influence?

Answer: In the six years in which the current Chief Judge has been at the Department of Labor, there has been no action which could remotely be construed as political influence on judges in their judicial capacity. The Department has been scrupulous in its understanding of both the importance of separation of function and judicial independence. There is no need, therefore, to remove the judges from the Department to protect them from possible political influence.

IMPROPER INFLUENCE ON ADMINISTRATIVE LAW JUDGES

Question: Have there been any complaints from Labor Department Administrative Law Judges of improper influence?

Answer: No, there have been no such complaints.

SAFEGUARDS PROTECTING INDEPENDENCE OF ADMINISTRATIVE LAW JUDGES

Question: What safeguards currently exist to protect the independence and objectivity of Administrative Law Judges?

Answer: The Chief Judges' Office serves as a barrier to preserve independence and objectivity and this is understood by the parties. Congressional inquiries are handled by a liaison staff and the judges generally are unaware of any outside interest in a case.

DEPARTMENTAL MANAGEMENT STAFF CUTS

Question: You are proposing to eliminate 100 positions in the fiscal 1986 Departmental Management program. Specifically, how would these reductions be distributed, office by office?

Answer: The fiscal 1986 Departmental Management position reductions are distributed as follows:

Executive Direction	20
Solicitor	26
International Labor Affairs	12
Administration and Management	26
Civil Rights	16
Total	100

OFFICE OF BUDGET STAFF CUTS

Question: How many positions would be cut from the Office of Budget, with what impact?

Answer: There are no positions cut from the Office of Budget in the fiscal 1986 budget reductions.

SCHEDULE C STAFF CUTS

Question: How many Schedule C positions would be eliminated, from which offices?

Answer: There are no Schedule C positions eliminated in the fiscal 1986 budget reductions.

JOB TRAINING AUDITS

Question: Back in Fiscal 1982, your budget identified 85 staff years associated with auditing CETA State and local projects. Your fiscal 1985 budget included 45 staff years for auditing the Job Training Partnership Act which replaced CETA. What happened to the 40 staff years no longer directed at job training operations?

Answer: Since 1982, the CETA closeout process, which was made up primarily of financial and compliance audits, has been mostly completed so that fewer staff are needed for that activity. Also, because the JTPA program is grants to states instead of localities, fewer such audits are needed for it. During the same period, the audit program and audit approach to Departmental programs has undergone drastic change. In particular, our efforts fall into four areas--implementing ADP initiatives; expanding audit coverage, reviewing legislation, regulations and systems; and monitoring the implementation of the Federal Managers' Financial Integrity Act.

First and most critical are our efforts in implementing our ADP initiatives. The OIG prevention effort will focus on systemic weaknesses in all departmental programs through the use of ADP techniques. By auditing computer-based systems, testing the integrity of automated data bases and using data base analysis techniques, we will identify recurring problems in DOL operations.

In addition, ADP-related issues are an integral part of almost all the Department's service delivery programs and operations. The Office of Audit (OA) will monitor system design and development projects so that problems detected in other computer-based systems will not be repeated. Specifically, OA plans to use computer matching techniques in a number of DOL benefit payment programs such as Unemployment Insurance and Federal Employees' Compensation Act. Also, we will closely monitor the implementation of a new FECA benefit payment computer system for inherent vulnerabilities.

Continuing expansion of our audit coverage is another aspect of our organized prevention effort. By performing expanded scope program audits rather than financial and compliance audits, we can focus on systemic program weaknesses and prevent waste, fraud and abuse at an early stage. Since FY 1982, OA has changed its audit program mix from 25 percent of our staff devoted to program audits to approximately 70 percent.

Another area of emphasis which will continue in FY 1985 is the advance review of legislation, regulations and systems to pinpoint problems up-front. For example, we have worked closely with ETA management on the closeout of the CETA Program and the implementation of JTPA. We also worked with ESA to develop better legislation, regulations and administration in the Federal Employees' Compensation Act. We also assisted task forces which realigned former LMSA responsibilities for administering LMRDA and ERISA. We will continue working closely with departmental management and the Solicitor's Office to identify our vulnerabilities early, before fraud or loss occur.

Prevention work will also continue in the area of internal controls. We will provide technical assistance to DOL managers on the development of adequate internal controls, the A-123 process and the submission required by the Federal Managers Financial Integrity Act. Resources formerly directed toward auditing CETA state and local projects are now directed toward these activities.

ADEQUACY OF SDA AUDITS

Question: Are you satisfied that the States and local Service Delivery Areas are doing an adequate job of auditing block grant programs under the new job training legislation?

Answer: We have not assessed the adequacy of state and local audit coverage of the JTPA program. Since many entities are on a two-year audit cycle, they have not yet issued JTPA audit reports. We are currently planning a special review to assess the adequacy of state audit coverage.

OIG's ROLE REGARDING JOB TRAINING PARTNERSHIP ACT

Question: What exactly do you see as the role of the Inspector General's office with respect to the Job Training Partnership Act?

Answer: The Office of Inspector General (OIG) has a responsibility under the Inspector General Act to perform audits of Department of Labor programs for the purpose of preventing and detecting fraud, waste and abuse. Such responsibility was undiminished by the enactment of the Job Training Partnership Act (JTPA). In fact the Job Training Partnership Act required the OIG to ensure that this major, new program contained safeguards adequate to prevent fraud, waste, and abuse. These responsibilities are consistent with OMB guidelines which emphasize the need for early audits of new programs and will be met primarily with nationwide audits.

The Office of Inspector General has a regulatory oversight role with respect to the State's statutory responsibility to assure that the State and its subrecipients receive financial and compliance audits. Specifically, the Inspector General has the responsibility under 20 CFR 629.42 to determine the acceptability of JTPA audit reports submitted by the States. As a part of this responsibility, the Inspector General must determine the adequacy of the scope of audit coverage in each State. Therefore, we have advised our Regional Inspectors General for Audit to notify all JTPA entities that each Governor should submit plans for auditing subrecipients to his/her appropriate Regional Inspector General for Audit. The sampling plan should include a list of all subrecipients and identify those selected for audit coverage and those for which an exemption is requested.

OIG's approval of the State's sampling plans should be satisfactory to meet the audit provisions of the JTPA and 20 CFR 629.42 (c) which allow for exempting certain subrecipients from audit coverage.

NATIONAL CAPITAL SERVICE CENTER

Question: You have established a National Capital Service Center, as the first step in consolidating headquarters level administrative functions. Specifically, what functions will be assumed by this Center that were previously conducted by the separate bureaus and agencies of the Labor Department?

Answer: The functions to be assumed by the National Capital Service Center (NCSC) in Washington are those same functions already provided to Department of Labor agencies on a centralized basis in the field. These functions include accounting, voucher and administrative payments services, payroll, personnel, procurement and small purchase services.

The agencies materially affected are BLS, ETA, MSHA, OSHA and SOL. All other agencies currently receive these services from the NCSC.

AGENCY CONTROL OVER PERSONNEL ACTIONS

Question: Will the separate Labor Department agencies lose any of their previous control over who is hired and promoted?

Answer: No. The Department of Labor agencies will retain control and managerial decisions over personnel actions to be taken, including hiring and promotion. The NCSC will be responsible for effecting the decisions made.

NCSC STAFFING & FUNDING

Question: Provide for the record the staffing and funding levels for the Center, for each of fiscal years 1985 and 1986, and the services of these resources from each component Labor Department agency.

Answer: The National Capital Service Center was organizationally established at the end of FY 1984. Fiscal years 1985 and 1986 resources for the Center are reflected in the Congressional Budget in the amount of 239 positions and $6,330,000 respectively.

Amounts transferred from the line agencies are as follows:

	Positions	Dollars
ETA	29	$ 1,059,000
ESA.	17	620,000
BLS	24	876,000
OSHA	12	136,000
MSHA	8	292,000
SOL	7	256,000
OSECY	55	1,689,000
LMS	25	1,100,000

NEW INITIATIVES OF PCEH

Question: The Departments of Education and Health and Human Services have undertaken new initiatives to expand employment opportunities for handicapped persons. In what ways is the President's Committe on Employment of the Handicapped assisting in these efforts?

Answer: Regarding the Department of Education's new initiative on transition from school to work, the President's Committee has reviewed the policy paper of Assistant Secretary for Special Education and Rehabilitation Services and has submitted comments to her. Also, information about the new initiative has been submitted to all Governors' Committees.

As for the Department of Health and Human Services new initiatives to expand employment for developmentally disabled persons, the President's Committee was represented in all planning sessions for this new initiative; worked closely with the HHS staff every step of the way; set up the first regional forum to discuss the initiative; encouraged nearly two dozen other regional forums; featured HHS personnel at meetings of our staff, our Executive Committee and State Chairmen and Secretaries.

PRIVATE SECTOR JOB OPPORTUNITIES

Question: What new activities has the President's Committee helped develop at the State and local levels to expand job opportunities for handicapped persons in the private sector?

Answer: The President's Committee's dominant activity of the year has been the Job Accommodation Network (JAN), an outstanding example of private and public sector cooperation. This originally was a project of the Volunteer Employers Committee of the President's Committee. It is a computerized service for employers giving them job accommodation information to help them properly place handicapped people. So far, the data base contains more than 3,000 data entries. More than 100 employers' requests come in each month.

Accommodation abstracts provided to employers includes information about tax credits for employers who hire disabled people and for those who make architectural accommodations for disabled workers.

The House Republican Research Committee, in its policy initiatives for 1985, lists two items in "current policies." One is the Decade of Disabled Persons. The other is the Job Accommodation Network of the President's Committee.

Additionally, there are many other new activities of the President's Committee which promote employment of disabled people. Among them:

- Local communities are being encouraged to develop intensive job placement programs. So far communities in 6 states are doing so. In fact, 12 cities in Florida alone have such programs.

- A half-dozen states have established media awards recognizing media efforts which promote employment of disabled people.

- We have established an American Association of Disability Communicators made up of 60 organizations in the disability field. Its basic purpose is to encourage them to do a more effective job of promoting employment. The Association publishes a newsletter and so far has held 5 workshops for organizations.

- The President's Committee distributes a regular column for use by newspapers. So far 35 newspapers are using the column.

- A great piece of legislation was enacted in late 1984, the "Carl D. Perkins Vocational Education Act." The President's Committee has taken initiative in informing disability organizations of its provisions and in encouraging wide use of the law. All Governors' Committees were informed of the provisions. Late last year, the President's Committee, with the help of Senator Weicker's staff, conducted a briefing at the Capitol for leadership of the disability movement. For the record we submit a President's Committee communication to all Governors' Committees about the new law.

- The President's Committee continues its mass media promotion campaign. Highlights are: public service advertisements developed by the New York School of Visual Arts, public service radio and television materials for all stations, articles in business and trade publications and an entire promotional kit to help local communities observe National Employ the Handicapped Week, the first full week of each October.

HANDICAPPED IN HIGH TECHNOLOGY FIELDS

Question: Has the President's Commitee been active in promoting handicapped persons as employees in newly developing high technology fields as computer software development?

Answer: The President's Committee has done several noteworthy things in the high technology area. We are promoting national acceptance of an unusual project, High School/High Technology. This is a joint venture of private industry, education and the community as well as local committees on employment of the handicapped. Its purpose is to reach disabled high school students and to build up their early interest in high tech as lifetime careers. A description of a typical high school/high tech project is submitted for the record.

The President's Committee cosponsored a national meeting on the utilization of technology for disabled people, along with the American Association of the Advancement of Science and Senator Orrin Hatch.

The 1985 Annual Meeting of the President's Committee will feature a day-long symposium on the long-term implications of high tech on the lives of disabled people. Also, the Annual Meeting will feature demonstrations of the latest technologies as they pertain to disabled people. Several Governor's Committees have held their own sessions on technology as it relates to disabled people.

OBSTACLES TO HANDICAPPED EMPLOYMENT

Question: What are the major obstacles handicapped persons face in obtaining employment in today's job market and what can be done to address these problems?

Answer: These are among the major obstacles standing in the way of full employment opportunities for disabled people:

Labor Force Participation

The 1980 Census disclosed that 89% of non-handicapped adults were in the labor force; less than 50% of the handicapped adults were in the labor force. This differential should be a matter of national concern. Among reasons for the differential: Social Security and welfare payments that disabled people don't want to risk losing; lack of marketable job skills; problems of transportation; stigma of disability; a variety of other factors. If the problem of disincentives can be dealt with, progress would be made.

Definitions

There is such a variety of definitions of disability that it is difficult to come up with firm numbers. Sections 503 and 504 of the Rehabilitation Act are broad: anyone who has a disabling condition, anyone who used to have one, anyone who is perceived of having one. This brings into the ranks many people who normally would not be considered as handicapped: bad backs, history of heart problems, and epilepsy under full control. The Census Bureau, on the other hand, has a self-definitional approach: do you have any condition which interferes with your ability to earn a living? For many, the answer is uncertain. If they are employed they are less apt to define themselves as disabled than if they are not employed. Thus, there is no accurate count of disabled people. Yet, we are in a age of accountability when we insist that programs be measured. Perhaps the only solution is more studies dealing with the process of counting the disabled.

Stereotyping

Stereotyping of disability has declined in the last few years, but it has not yet departed. There is still some stereotyping in job preparation and job placement. Examples are deaf people being placed in noisy settings, blind people in dark rooms, retarded people in sheltered workshops rather than outside jobs. There is need for more sensitive preparation and placement with an eye on jobs with brighter than average futures.

Rehabilitation Engineering

We're all amazed at the advances of technology to help the disabled. But so much of it is out of the price range of average disabled people. The need now is for ways to bring technology down in price. This need has been addressed in the seminar by the President's Committee and Senator Hatch. It also will be addressed at our 1985 Annual Meeting. The emphasis must be continued.

Linkages

Connecticut recently completed a study of the job needs of disabled people. Its findings would be valid in many other states. The study shows little collaboration between education and business; little collaboration betweeen education and vocational rehabilitation; no central agency for placement and follow-up. The need is for linkages. The President's Committee has been sponsoring a series of "Pathways to Employment," meetings bringing together diverse forces in the community to encourage linkages and to encourage proper job preparation of disabled people.

SUPPORTED WORK INITIATIVES

Question: What actions or plans has PCEH developed to become involved in the supported work initiatives being encouraged by Department of Education's Office of Special Education and Rehabilitation Services?

Answer: The President's Committee has been working closely with staff of the Department of Education's Office of Special Education and Rehabilitation Services in developing wide acceptance of the supported work initiatives. The Pathways to Employment seminars of the President's Committee have spotlighted these initiatives. The Assistant Secretary for Special Education and Rehabilitation Services spoke at a President's Committee seminar about them. Our staff and Committee members are available to support the initiatives in any way that we can.

PRESIDENT'S COMMITTEE ON EMPLOYMENT OF HANDICAPPED

Question: Provide for the record a detailed accounting of all budgetary resources available to the President's Committee on Employment of the Handicapped (PCEH), indicating the source, by agency, of each amount transferred to the Committee, as well as the number of positions supported by each funding source.

Answer: In FY 1984 the President's Committee appropriated budget was $2,018,000. This supported 38 full-time positions. In addition, the President's Committee received $180,000 in transfer of funds from the Rehabililation Services Administration (RSA) for the Committee's new employer project, the Job Accommodation Network (JAN). By contract these funds were provided to the West Virginia University, a Research and Development institution of NIHR to launch the JAN project. The NIHR funds were not to support any President's Committee positions.

In FY 1985 the President's Committee's present operation budget is for $2,080,000 to support 38 full-time positions. Also, for FY 1985 NIHR transferred to the President's Committee $100,000 for the JAN project. Again, the NIHR amount did not support any President's Committee positions.

PCEH EXPENDITURES

Question: Provide for the record an accounting of all PCEH expenditures irrespective of the source of funds and according to major expenditure areas, e.g. personnel, travel, consultants, meetings, etc.

Answer: Following are the President's Committees' expenditures broken down by major expenditure areas for FY 1984:

	Actual FY 1984 Budget
Total Personnel Comp.	$1,079,000
Personnel Benefits	143,000
Travel & Transportation of Persons	104,000
Transportation of things	8,000
SLUC (Space)	153,000
Communication, Utilities & Other Rent	34,000
Printing & Reproduction	253,000
Other Services (Working Captial Fund)	215,000 (104,000)

Supplies	13,000
Equipment	3,000
Total Obligations	$2,005,000
Transfer from NIHR	180,000

PCEH MEETINGS

Question: Provide for the record the copies of the minutes of all PCEH business meetings conducted in FY 1984.

Answer: Minutes of President's Committee meetings held in FY 1984 for which formal minutes were prepared are hereby being submitted under separate cover. These include Executive Committee Meetings, Steering Committee Meetings, and meetings of Standing Committees.

(The following information is being retained in the committee files.)

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Question: Under the Job Training Partnership Act (JTPA), the National Commission on Employment Policy is to evaluate the impact of performance standards on who is served, what services are provided, and the cost of such services. What is the current status of this study?

Answer: It would be difficult, at this time, for the National Commission for Employment Policy to separate the impact of performance standards from the impact of other changes in JTPA that may have as large or larger impacts on client selection, services, and costs. These other factors include the increased private sector role, the significant reduction in stipends and other client support services, the use of fixed-price, performance based contracting and the expanded role of States.

Based on the complexity of identifying the specific impact of performance standards as distinguished from the impact of these other factors, and based on the lack of precedence in applying performance standards to a Federal social program and evaluating their impact, the Commission has initiated a major, two-part performance standards impact research project.

The first phase of the project, to be completed in early 1986, will examine at least 14 performance standards-related areas, including the key client, services and cost impact issues, the impact of the Department of Labor's adjustment methodology, and the impact of the current performance measures. The Commission felt that the evaluation work could not profitably be initiated earlier. Since data from the first full program year will not be available until late 1985 or early 1986, at about the same time that the evaluation design work will be completed.

The second phase of the performance standards impact evaluation will be the implementation of the designs developed in the first phase. Given the nature of the National JTPA reporting system and the estimated date of availability of the Department of Labor's longitudinal data, other sources of performance standards-related data may also have to be developed in order for the Commission to accurately evaluate the impact of performance standards. The Commission anticipates initiating the actual evaluation during 1986.

SIMILAR STUDIES

Question: Are you aware of any similar studies or analyses in this regard?

Answer: The principle study is being conducted by NCEP; however, the Department has conducted other studies, including:

- the Department of Labor's recent request-for-proposals to conduct a process evaluation of the implementation of performance standards, i.e., a study of how the standards were implemented by States and local areas;
- the Department's contract with SRI to conduct analytical work on the development of future performance standards and to consolidate findings of other performance standards studies;
- the Department's contracts with Abt Associates and Berkely Planning Associates to study issues related to performance measures and standards for increases in employment and earnings, and reduction in welfare dependency;
- the Department's contract with the Technical Assistance and Training Corporation to examine youth employment competencies and how they might fit into the performance standards for youth;
- the Department's contact with Westat to document and study the implementation of JTPA; and
- the Department's several contracts to develop approaches to net impact evaluations using data to be gathered through the Job Training Longitudinal Study (JTLS).

VETERANS JOB TRAINING

Question: How is the new veterans' program authorized under Title IV of the Job Training Partnership Act being coordinated with other employment activities for veterans operated by the Labor Department and by related activities within the Veterans Administration?

Answer: We have ensured close coordination with other employment related activities within the Department of Labor (DOL) and the Veterans Administration (VA) in several ways.

First, in developing program design and regulations we sought guidance and comments from various DOL and VA officials. As important, we maintain ongoing coordination through frequent contact with staff of VA and DOL as well as through regular meetings of the Secretary's Committee on Veterans Employment. This Committee is made up of various Federal agencies and veterans organizations, meets at least quarterly and is charged with coordination of all employment and training programs affecting veterans. Another means of effective coordination has been through our formal VA/DOL agreements developed at the national and state levels. These agreements have served to facilitate not only better coordination but more effective and efficient services to veterans.

BLACK LUNG CLAIMS BACKLOG

Question: An October GAO report estimated that given fiscal year 1984 staffing levels, your Office of Administrative Law Judges could take over 35 years to reduce its backlog. However your decision to cut this backlog by contracting with retired judges could reduce the backlog to reasonable levels within nine years. This seems like a very long time to take to resolve this problem. Can't we do any better than that?

Answer: At the outset, it should be understood that GAO's "statistical" time references are misleading. There would certainly be over 6,000 cases pending in two or three years, but if one assumes 7,000 dispositions a year and a 5,000 case intake, at the end of four years the average case would take a little over 2 years to decide from the time of filing.

The current initiatives are the beginning and not the end of the process of attacking this backlog. We will be working on means for arranging details of underutilized judges at other agencies. If we can complete these arrangements, these backlogs could be reduced efficiently with little cost within 3 years.

BENEFITS REVIEW BOARD -- SUPPORT STAFF

Question: The same GAO report pointed out your Benefits Review Board had recently been expanded from three to nine members by Public Law 98-426. The report indicated that "with a full complement of support staff" that expanded Board could still take 12 years to reduce the Board's workload to acceptable levels given anticipated workload increases.

Even that long delay assumes a full complement of support staff. However you are requesting no additional Black Lung staff in 1986. How do you plan to provide staff support to those additional Board members?

Answer: The additional support staff are already reflected in the FY 1985 Departmental Management Appropriation which includes funding for 53 additional positions for the Benefits Review Board. Of this additional staff, 6 positions are for additional Board members and 47 positions are support staff for the expanded Board.

QUESTIONS SUBMITTED BY SENATOR WILLIAM PROXMIRE

INTERNATIONAL LABOR ORGANIZATION

Question: You are requesting $4.1 million for your International Labor Affairs program in fiscal year 1986. Once again in your justifications you place particular emphasis on promoting labor-related human rights around the world through the International Labor Organization (ILO). Could you tell us of some of your more notable human rights accomplishments over the last 12 months?

Answer: The ILO machinery for setting international labor standards and monitoring their application is the most comprehensive and effective human rights procedure in the UN system. It has very carefully designed due process features which ensure its objectivity and credibility. The United States Delegation to the ILO has worked hard to preserve and strengthen the ILO's standards machinery, with the following recent positive results:

a. The ILO has diligently followed its mandated procedures to investigate the Government of Poland's violation of trade union freedoms. The organization has done this in the face of strong pressure from the Soviet bloc to exempt Poland from the normal examination and reporting. In response to the publication of the final report of the ILO Commission of Inquiry, Poland in November 1984 announced its intention to withdraw from the ILO, and the rest of the Soviet bloc threatened unspecified action in support of Poland.

b. Outside the context of Poland, the ILO has rejected Soviet bloc pressures to drastically weaken the ILO's standards machinery. A Soviet sponsored resolution designed to weaken the ILO's human rights supervisory machinery was rejected by the ILO's annual Conference in June 1984.

c. In 1984, the labor standards report of the ILO, prepared during the June Conference by the Committee on Application of Conventions and Recommendations (CACR), was approved by the plenary of the Conference. (In prior years the Soviet bloc, working with some of the developing countries, has on occasion been able to prevent plenary adoption of CACR reports which have been critical of Eastern European application of ratified worker rights standards.)

INTERNATIONAL LABOR ORGANIZATION

Question: In this year's justifications you indicate that one of the accomplishments of your International Labor Affairs activity in 1984 was to increase private involvement in ILO activities. Could you give us some examples?

Answer: In the past, U.S. delegates--in particular those representing U.S. Workers and Employers--were unfamiliar with the ILO, its programs, and some of the issues they were likely to face at the meetings. ILAB perceived a need for better preparation, and in 1981 developed a briefing session for these delegates which included a slide program narrated by members of ILAB staff knowledgeable about ILO issues and precedures. At the briefings, we encourage the active participation of employers and workers and solicit their advice on substantive issues.

These briefings have been refined, and now all U.S. Worker and Employer delegates are thoroughly prepared for participation in ILO meetings. As a result, they are "one step ahead" of other delegates, and have taken leadership roles in the Worker and Employer caucuses--much to the consternation of the Soviet delegates and to the appreciation and encouragement of free world delegates.

In 1984, the ILO held three industrial committee meetings: on mines other than coal mines, the textile industry, and the food and drink industries. At each of these, U.S. employers and workers actively contributed to the success of the meetings, being elected by their groups to a variety of leadership positions (e.g., Group Chairman: Subcommittee Vice-chairman: Members of the Steering Committee, which reviews the sometimes contentious resolutions submitted to the meeting).

Moreover, in 1984 U.S. private sector funded meetings with foreign counterparts which were held in connection with all three industrial committee meetings. U.S. employers and workers voluntarily contribute resources to offset the costs of these meetings, which directly or indirectly promote the positive aspects of a free industrial society. U.S. delegates are encouraged to display hand-out materials which depict the advanced "state-of-the-art" in their industry (for example, in the areas of safety and health, an industrial relations environment free from government control, technological developments, etc.) In 1984, approximately 900 representatives from countries of varying stages of development attended these meetings.

PRODUCTIVITY MEASUREMENT STANDARDS

Question: Mr. Komarek, last year a record response to my questions on productivity indicated that in 1982, 40.3 percent of Department of Labor activities reported that 54.9 percent of your positions were covered. Why isn't it possible to use productivity measurement standards for more than half of your employees?

Answer: Non-participation by two major organizations ETA and LMS (formerly LMSA) due to program terminations, cutbacks and reorganizations, for the past several years, reduced coverage of DOL employees in the Federal productivity measurement standards. DOL is working to increase coverage of its employees as reflected by an increase from 40.8 percent in FY 1980 to 54.6 percent in FY 1983.

DECLINE IN PRODUCTIVITY IN ACTIVITIES

Question: Between 1981 and 1982 the number of activities reporting on productivity dropped from 45.6 percent to 40.3 percent. Can you tell us why?

Answer: The Department of Labor has experienced a decline between 1981 and 1982 in participation in the Federal productivity measurement system by two of its major organizations the Employment and Training Administration and the Labor-Management Services (formerly LMSA). The program terminations, cutbacks and agency reorganizations which have occurred in these organizations have lowered the productivity percentages.

1984 DEBT COLLECTION TARGET

Question: Mr. Komarek, I'd like to take a look again this year at your debt collection activities. Last year you indicated that your 1983 debt collection target was $203 million but that you were able to collect only $175 million in 1983. Did you meet your 1984 target of $185 million?

Answer: Total FY 1984 collections for the Department were $185.0 million, slightly exceeding the $184.7 million target. However, collections included $12.4 million from sources not considered in establishing the target. Collections by agencies with established targets amounted to $172.6 million, $12.1 million below target.

Question: Last year you stated your 1985 debt collection target was $184 million. Is that still your target and do you feel comfortable with it?

Answer: The revised FY 1985 target is $172.1 million, down $11.2 million from the previous estimate. This reduction results primarily from a decrease in the collections estimated to be made by the Employment and Training Administration (ETA). Since FY 1984, ETA has emphasized cash payments in lieu of more readily available "in-kind" payments. In addition, ETA now projects $55.0 million in reclassified debts, up $16.8 million from the previous projection. Reclassified amounts primarily represent debts which are reduced or cancelled as a result of a successful appeal.

DEBT COLLECTION--WRITE OFF

Question: A table you inserted in last year's hearing record shows a significant increase in write offs between 1983 and 1985. They are projected to rise from $5.8 million in 1983 to $12.5 million in 1985 although total debt collected stays pretty constant. Write offs would remain a small percentage of total debt collected rising from .8 percent in 1983 to a projected 1.6 percent in 1985. But can you tell us why you project an increase in write-offs?

Answer: Increased write-off activity generally results from the greater attention our Agencies are directing to debt management. In some cases, debts should have been written off before now. In others, debt cases were not adequately documented to support the decision to write the debt off. We anticipate an increasing rate of write-offs over the next several years, and then a decline to a relatively constant lower rate once the older cases are cleared from the accounts.

UNUSED TELEPHONE LINES

Question: A recent General Services Administration report indicated that the Federal government is paying more than $2 million a year for an estimated 16,000 telephone lines that are disconnected, unplugged or unneeded in Washington office buildings. Based on a sample, GSA has projected that the Department of Labor has 872 unused lines. At $125 a line that would cost you $109,000. Do you think GSA's estimate is accurate and can you tell us what steps you are taking to correct the situation?

Answer: In January 1985, the General Services Administration (GSA) provided the Department of Labor a listing of phone lines for which they found "no recorded usage." Until GSA provided this new tool, no reasonable method existed to analyze the extent of the number of phone lines that were possibly disconnected, unplugged or unneeded. The information provided by GSA will be exceptionally useful and will assist the Agencies of the Department to easily pinpoint which lines may be unneeded. The data provided by GSA is currently being researched and any inactive or unneeded lines will be disconnected.

QUESTION SUBMITTED BY SENATOR LAWTON CHILES

OFFICE OF LABOR RACKETEERING

Question: Mr. Hyland, you may have heard that I raised some questions the other day with the Acting Secretary about the rescission request for the Office of Labor Racketeering and your unit. I wasn't really satisfied with the answers I got. I wonder if you could just summarize what the staffing situation is in the Office of Labor Racketeering and what impact that rescission would have on this area of law enforcement.

Answer: The rescission will not affect staffing. The Office of Labor Racketeering (OLR) currently has a total staff ceiling of 104 positions; 98 of the positions are in the field, and 6 in headquarters. There are 92 special agent positions, 1 analyst and 11 clerical. Presently, there are 16 special agent vacancies; however, candidates have been selected for 7 positions and we are awaiting the results of their security clearance investigations before these people can commence employment.

The 16 vacancies in OLR occurred through normal attrition and the result of certain agents' refusal to accept transfers for the good of the agency. While we repeatedly have attempted to use OPM registers of eligibles to fill our agent positions, the register candidates do not possess the highly specialized qualifications required to perform the work of OLR. I, therefore, made a conscious decision to delay filling the vacancies while we sought an alternative to the OPM registers. To this end, I requested in January and last month received authorization from the Office of Personnel Management to employ the Excepted Service, Schedule B, personnel procedures. With this authority, I will be able to maintain the high prerequisites for OLR special agent employment by identifying the specialized skills and selecting qualified applicants. I am confident that this procedure will enable me to fill the vacancies before the end of this fiscal year.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

STATEMENT OF ROBERT ROWLAND, ASSISTANT SECRETARY OF LABOR FOR OCCUPATIONAL SAFETY AND HEALTH

ACCOMPANIED BY:
PATRICK TYSON, DEPUTY ASSISTANT SECRETARY
PAULA WHITE, BUDGET OFFICER

INTRODUCTION OF ASSOCIATES

Senator WEICKER. Our last witness this morning is Robert Rowland, Assistant Secretary of Labor for Occupational Safety and Health Administration.

Mr. Rowland, if you would be seated. Senator Proxmire will be chairing the hearing. I have a meeting with the majority leader at 11. I don't want you to feel any personal affront when I leave. You are in good, capable hands here with Senator Proxmire.

Mr. ROWLAND. Thank you, Mr. Chairman.

Senator WEICKER. Go right ahead.

Mr. ROWLAND. I have on my left Patrick Tyson, my deputy, and on my right Paula White from our Budget Office.

I don't have a long opening statement. I would like to point out one item in our submission.

We list 20 positions being cut in the enforcement area. I want to make it clear from the outset that this does not mean a lessening of the enforcement effort. It does not mean a cut in any inspection personnel. These 20 positions are totally related to the small region initiative. They would all come from regional office administration if Congress sees fit to enact that initiative. We have not made any plans on implementing that, and we are awaiting approval from Congress.

The other seven positions would be saved by centralizing administrative services. They have nothing to do with enforcement.

That is all I have.

PREPARED STATEMENT

Senator PROXMIRE [presiding]. Thank you, sir. Your statement will be inserted in the record at this point.

[The statement follows:]

STATEMENT OF ROBERT A. ROWLAND

Thank you for this opportunity to present the Occupational Safety and Health Administration's fiscal year 1986 appropriation request, which provides for necessary expenses of the agency to carry out the purposes of the Occupational Safety and Health Act of 1970.

Consistent with the President's budget message and the necessity of containing the costs of Government, the agency is requesting a total of $213,059,000 and 2,280 positions—a net decrease of $6,075,000 and 27 positions from the estimate for fiscal year 1985. This request allows for mandatory or "built-in" increases totaling $8,631,000, with offsetting decreases totaling $1,372,000. This request also anticipates program savings of $13,334,000 in fiscal year 1986, of which:

—$6,116,000 are projected savings as a result of management improvements and reforms, and a 5-percent reduction in pay;

—$4,518,000 represent offsetting reductions in overall costs that are necessary to freeze State grants and GSA rentals at their current levels;

—$2,700,000 reflect the completion of previous funding commitments for OSHA training and education grants, and a reduction in the Bureau of Labor Statistics' supplementary data collection system.

OSHA is also submitting an fiscal year 1985 rescission proposal of $1,694,000, pursuant to section 2901 of the Deficit Reduction Act of 1984 (Public Law 98-369). There will be no adverse program effects as a result of this rescission.

These savings will be accomplished within the agency by increased productivity and efficiency, and externally by a freeze on grants and reimbursements that will encourage similar efficiencies by recipient organizations. As a result, OSHA expects to maintain the same overall level of program operations in 1986 as in 1985:

—The Occupational Safety and Health Administration will again conduct an estimated 71,400 worksite inspections in fiscal year 1986, the number currently projected for this year and the approximate number conducted in fiscal year 1984.

—In addition, we estimate that safety and health inspectors in State plan States will conduct 108,000 worksite inspections under Federal matching grants, the same as in 1985.

—State personnel providing federally supported consultations in 47 States and jurisdictions will again make a total of 32,400 worksite visits, also the same as in 1985.

OSHA will seek to ensure that its resources, organization, and internal systems continue to effectively support the agency's goal of a balanced program. We will continue to promote a balanced mix of programs that includes consultation, education, training, State programs, Federal agency programs, and voluntary employer/employee protection programs:

—Comprehensive standards will be promulgated that are both cost effective and enforceable.

—Inspections will continue to be targeted in high-hazard industries, primarily in construction and manufacturing.

—State programs meeting the proposed new benchmarks for fully effective State enforcement will be given final approval if they meet all other State program criteria under the act.

—The consultation activity will continue to emphasize onsite training and assistance to help smaller establishments develop effective hazard prevention programs.

—Current training and education grants will be continued and new grants will be awarded for the development of programs which address priority safety and health objectives.

—Federal agencies will be monitored in terms of the President's goal to reduce Federal workers' compensation claims by 3 percent each year for 5 years.

—Voluntary protection programs will provide appropriate recognition to private sector firms with exemplary safety and health programs.

—High quality technical support will continue to be provided to all of the agency's program operations.

Regarding these efforts, published statistics on job-related injuries, illnesses, and fatalities continue to show improvements in workplace conditions nationwide. The Bureau of Labor Statistics annual survey for calendar year 1983, the most recent year for which data are available, revealed a one-fourth drop in work-related fatalities compared with the previous year. For covered employment units with 11 or more employees, the estimated number of work-related fatalities declined from 4,090 in 1982 to 3,100 in 1983. At the same time, the lost workday injury rate for all industries fell from 3.5 per 100 full-time workers in calendar year 1982 to 3.4 in 1983.

As directed by this subcommittee, OSHA has allocated $500,000 to BLS in fiscal year 1985 to study the accuracy and quality of the occupational safety and health statistics collected in the survey, with special attention to worksite recordkeeping.

Having chaired the Occupational Safety and Health Review Commission for 3 years preceding my appointment to OSHA, I am very familiar with OSHA's accomplishments. This agency has achieved positive results by delivering a balanced program in the field, by emphasizing abatement, and by encouraging labor/management cooperation and voluntary approaches to workplace safety and health. I do not anticipate making major changes in a program that is working. I will, however, be reviewing activities throughout OSHA to improve operations wherever possible.

Mr. Chairman, this concludes my statement. Thank you for this opportunity to appear before the subcommittee. I will be pleased to respond to any questions.

ESTIMATES OF STANDARDS

Senator PROXMIRE. Last year's budget appendix had a table of program statistics that showed OSHA planned to promulgate 8 health standards and 10 safety standards in fiscal year 1984. You fell more than a little short of that goal, promulgating only three health standards and two safety standards.

Why was your initial estimate so wide of the mark?

Mr. ROWLAND. It wasn't my estimate. I have just come onboard. The OSHA estimates have always fallen short, as a matter of fact. I did review the health standards we have passed in OSHA and found that there has always been a delay—an overestimation.

That doesn't mean we are not giving it the best effort. And I am sure everyone has from 1971 on. But the process is lengthy. It is very complex. It is designed to give maximum public input.

We have calculated it. There are something like 17 steps in the process of promulgating standards. Those 17 steps could be expanded threefold and fourfold for each one of them, depending upon the response that they receive from various people.

There is lots of give-and-take, lots of public input. A good example are two safety standards that were put out for comment this past year. We have one on oil drilling activities and we have one on grain elevators. The response by the public was overwhelming on grain elevators. There are several thousand pages of comments that are being reviewed right now, some of them very good, and we know we have to make changes.

So while we hope to get to the goals we set, we cannot always reach them.

Senator PROXMIRE. I will tell you, that seems to me to be a pretty shocking shortfall. You planned to promulgate eight health standards and only issued three health standards. That means you didn't fall one or two standards short. You don't produce one-half as many standards as you said you would promulgate. You fell from a predicted 10 to only 2 actual safety standards. That means you only issued one out of every five safety standards that you promulgated.

You say the estimates have always been off. That is an unsatisfactory response. The estimates shouldn't be off. It seems to me if OSHA has been overly optimistic in the past, they should be more honest in the future.

Mr. ROWLAND. Perhaps they should. We have to compile every year an estimate of time spent on things we are working on. We don't always set our own deadlines. We are under court orders. Since I have been with OSHA, I have been faced with three court orders to do something by a certain date. It is not always possible to do. It may be that we should get realistic about it.

Looking back on it, we have managed over 14 years a total of only 16 health standards. The estimates were high in every administration, every year. Of those 16, 3 have been struck down and 1 severely modified. We are down to 12.

Senator PROXMIRE. Do you have inadequate personnel to do the job?

Mr. ROWLAND. No; it is not that. It is the give-and-take of the process. The court tests. You get going on something and then you have the courts come in.

We have had a severe change of course since the *Benzene* case in 1978 when the Supreme Court required us to show significant risk, which changed all of our standards promulgation process.

Senator PROXMIRE. I am troubled by that. We will see what we can do about it.

I have a question along that same line from Senator Inouye, which I will ask you to respond to for the record, if you would.

Mr. ROWLAND. All right.

FIELD SANITATION STANDARD

Senator PROXMIRE. Mr. Rowland, last March 8 your predecessor and I discussed a proposed rule requiring portable toilets and sanitary drinking water for 760,000 seasonal farmworkers. The proposed rule had been issued pursuant to a court order after OSHA had dragged its heels for more than a decade. I understand that you have missed the February 16 court deadline. When will the rule be issued in its final form?

Mr. ROWLAND. We have asked for a delay until April 16. I would hope we have a decision by that time. That is what we are working toward.

Senator PROXMIRE. You have asked for a delay. Why?

Mr. ROWLAND. I just did not get to it, very frankly, Senator. I came on in July. I had other priorities. I have had a lot of priorities. Benzene was my No. 1 priority. I have been working on that since coming to OSHA. I have had three court deadlines. This is the third one. The other two court deadlines were ahead of this one.

With everything put together, the time element was not sufficient for me to study this. It has been there a long time, but not for me. That is the problem.

Senator PROXMIRE. The Post article says OSHA will miss a February 16 deadline agreed to in a settlement 2 years ago and will need at least 2 more months to complete its standards.

Mr. ROWLAND. That is right.

Senator PROXMIRE. Is it true that the four or five people who had been working on this rule all have left during recent months?

Mr. TYSON. That is the case, Senator. We had a number of the staff that were involved in the rulemaking earlier on and found better jobs on the outside or were moved around; and, therefore, because of the need for someone to study that extensive record, additional time was required.

Senator PROXMIRE. Why were they moved around?

Mr. TYSON. We did not move them around. We didn't create the problem.

Senator PROXMIRE. Did any of them leave because of RIF's?

Mr. TYSON. No, sir. We have not RIFed anyone.

Senator PROXMIRE. Did you leave because of position cuts?

Mr. TYSON. No, sir.

Senator PROXMIRE. If they left, I presume they left because, as you just said, they had better offers on the outside.

Mr. TYSON. That is my understanding, yes.

Senator PROXMIRE. That sounds like an argument for raising Federal pay instead of cutting it 5 percent, doesn't it?

Mr. TYSON. I won't respond to that. [Laughter.]

BENZENE STANDARD

Senator PROXMIRE. Mr. Rowland, according to your own experts, about 600,000 U.S. workers are exposed to benzene on the job. A scientist at the National Institute of Occupational Safety and Health says that under the current benzene standard of 10 parts per million, workers are 30 times more likely to get leukemia than employees who aren't exposed to the substance.

Now I understand that a rule setting a stricter standard for benzene exposure has been written, but that there have been delays in getting it to the top levels of the Department for approval. Where does the proposed rule currently stand and when will it be published?

Mr. ROWLAND. I have made all of my decisions. It is in the Department now. I think it will be leaving the Department very shortly, possibly next week.

Senator PROXMIRE. Can you tell us how many parts per million would be allowed under the proposed rule?

Mr. ROWLAND. One part per million.

BUTADIENE STANDARD

Senator PROXMIRE. Researchers at the National Institute of Environmental Health Sciences recently reported that the chemical butadiene, a component of synthetic rubber, causes cancer in mice at levels much lower than the maximum exposure permitted by your regulations. Apparently the scientists had to terminate the study prematurely because so many mice were dying of cancer.

The researchers wrote, and I quote: "There is a public health need to reevaluate the current OSHA standard for exposure of workers to butadiene."

Are you presently reevaluating that standard?

Mr. Rowland. We are reevaluating that at this time, yes, sir.

Senator Proxmire. Do you have any notion as to when you might have a decision on that issue?

Mr. Rowland. I really don't. Again, that gets down to estimates. I don't think we are close to having a final decision.

Pat, have you got an estimate on that?

Mr. Tyson. We do not. We took several actions initially, as soon as we got that study. We convened a panel of experts in the area to discuss the nature of the study and some conflicts it presented. We are moving down a course that would take us to regulating. But at this time, no proposal has come forward.

Senator Proxmire. As a matter of human life, it seems to me it is the kind of thing that needs attention.

Mr. Tyson. Absolutely. It is one we are working on.

Senator Proxmire. Could we have a draft standard in the next 6 to 12 months?

Mr. Tyson. I would anticipate that, yes, sir.

Senator Proxmire. I understand that last March OSHA rejected an emergency petition by several unions to reduce worker exposure to 1, 3-butadiene.

Mr. Tyson. That is the same subject.

Senator Proxmire. Can you tell us whether you have modified your position in view of the NIEHS study?

Mr. Rowland. As Mr. Tyson said, we are studying it. We are going to move forward.

Senator Proxmire. Go ahead, Tom.

Mr. van der Voort. You don't feel it is an emergency?

Mr. Rowland. Nothing has been presented to me that indicates an emergency standard is called for in this case. We have had very few of those in the history of OSHA. Out of six contests, we have lost four in court.

The standards the court set on that are very stringent. It is a strictly construed statute and it is very difficult to meet that test. Nobody has presented to me anything that has indicated this is one that meets the test.

QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

Senator Proxmire. Thank you all very much.

There are some additional questions which we would like you to respond to for the record.

[The following questions were not asked at the hearing but were submitted to be answered for the record:]

QUESTIONS SUBMITTED BY THE SUBCOMMITTEE

SAFETY AT CHEMICAL PLANTS

Question: What extra precautions are you taking to make certain that the tragedy of the Union Carbide plant in Bhopal, India never occurs here in the United States?

Answer: The December 3, 1984, tragedy at Bhopal, India heightened worldwide concern over safety in the chemical workplace. The Occupational Safety and Health Administration (OSHA) immediately sent inspectors to every facility in the nation where methyl isocyanate (MIC) is either produced or used in significant quantities, to determine whether there are adequate safeguards to protect employees from the hazards associated with MIC. Because OSHA's statutory authority is limited to the protection of employees from workplace hazards, its investigation centered on this aspect of any potential MIC-related dangers, but the Agency has closely cooperated with the Environmental Protection Agency and State and local authorities having jurisdiction over the potential dangers of chemical release to the environment and general public.

OSHA's inspections began December 6, 1984, and continued over the next two-and-a-half months. The agency conducted a thorough investigation of the Union Carbide plant in Institute, West Virginia. That facility is the sole producer of MIC in the United States and similar to the Bhopal facility. Inspections were also conducted of the four major users of the chemical. During the inspections, a detailed investigation of preventive measures for hazards associated with MIC was undertaken. This included an examination of preventative measures for both uncontrolled chemical reactions and spills or leaks of the chemical that may occur in plant operations.

OSHA conducted exhaustive reviews of all pertinent documents maintained by the employers, compliance with all applicable OSHA safety and health standards, processes in which MIC is manufactured or used, and all protective measures or produces either in place or planned for the facilities inspected. The Agency also assessed the employers' compliance with Section 5(a)(1) of the Occupational Safety and Health Act, which imposes a general duty on all employers to furnish to their employees workplaces free of recognized serious hazards.

Based on an analysis of the findings of the inspections and the detailed study of the MIC industry, OSHA concluded that industry practices now in place indicate that the chances of an uncontrolled MIC reaction, such as occurred at Bhopal, are extrememly remote. These practices are designed to prevent, control, and neutralize an uncontrolled MIC reaction, rely on safety systems in several levels of redundancy, and are professionally maintained.

OSHA further concluded that all companies inspected had developed and implemented effective practices aimed at neutralizing MIC and preventing its passage into the ambient air in the event of a spill or leak, backed up by secondary protective measures such as preventive maintenance, safe work practices, employee hazard training, emergency procedures, and the use of personal protective equipment (including respirators).

While the workplaces inspected demonstrated generally rigorous adherence to OSHA's requirements, the Agency has issued two citations for violations relating to specific safety and health standards, and for violation of Section 5(a)(1) of the OSH Act.

The Agency believes that correction of these violations, coupled with the safety measures already in place in MIC facilities in the United States, will ensure that the possibility of a tragedy such as that at Bhopal is extremely remote. At such time as OSHA is able to study and analyze the report on the causes of the Bhopal disaster, the Agency will reexamine all its conclusions and plan for any necessary re-inspections that may prove warranted.

ABOLISHING REGIONAL OFFICES

Question: You propose to abolish regional offices in Boston, Kansas City, and Seattle. If this happens, what kinds of problems and delays would occur as the result of all inspectors in New England reporting to the New York Regional Office?

Answer: OSHA compliance officers (inspectors) work out of Area Offices which are under the jurisdiction of a Regional Office. All compliance officers report directly to the office's Area Director. Area Offices in New England would continue to operate in the same manner and provide the same services as they do at present.

ACCURACY OF WORKPLACE SAFETY AND HEALTH STATISTICS

Question: Your budget indicates that 82 percent of all workplace safety and health inspections are targeted toward high- hazard industries. How reliable is the data utilized to determine which industries and business establishments are sufficiently "high-hazard" to be targeted for inspection?

Answer: OSHA uses the best available data to determine those industries and activities in which hazards are most likely to be found. In the case of programmed safety inspections, OSHA focuses its efforts on those establishments in industries within the manufacturing sector with lost workday injury (LWDI) rates higher than the national average for all industries. These rates are determined by the Bureau of Labor Statistics (BLS) in its Annual Survey.

OSHA's inspection data show that the Agency's targeting system for manufacturing industries is effective in finding the most hazardous workplaces. The "in-compliance" rate (i.e., the percent of inspections with no violations of OSHA standards) is much lower for targeted safety inspections in manufacturing (17 percent) than it is for all inspections (48 percent) and for inspections generated by worker complaints, accident investigations and follow-up inspections (56 percent). Since over 60 percent of all manufacturing establishments have no lost workday injuries and 80 percent have rates below the national average, the safety targeting system is clearly sending OSHA inspectors to manufacturing workplaces where the hazards are found.

Further evidence of the validity of OSHA's safety inspection targeting mechanism is found in the trends in LWDI rates. These rates have dropped steadily since OSHA began its current safety targeting approach. The rate for manufacturing industries, for instance, has declined from 5.2 lost workday injuries per 100 workers in 1980 to 4.2 in 1983.

OSHA has a separate safety inspection targeting system for the construction industry which has a higher injury incidence rate than the national average for the manufacturing sector. More than half of all OSHA inspections (52 percent in Fiscal Year 1984) were conducted in the construction sector where the LWDI rate fell from 6.5 per 100 workers in 1980 to 6.2 in 1983. The "in compliance" rate for all inspections in the construction sector (including employee complaints, accident investigations and followup inspections) is 41 percent, further indicating that OSHA's targeting of construction inspections is an effective use of resources.

OSHA targets firms for health inspections on the basis of its own inspection records and not on BLS estimates of illness rates. Programmed health inspections are conducted at establishments in industries with a high number of past serious violations of OSHA's health standards per inspection. OSHA believes that this new system which was begun in 1984 will improve the Agency's ability to target its health inspection resources more effectively.

Question: Are you concerned that businesses might be failing to record some workplace injuries and illnesses in order to reduce the chance of being inspected?

Answer: OSHA believes that most employers are honest and would not alter their safety and health records for the relatively small gain of escaping a comprehensive OSHA inspection. OSHA assumes that employers will meet their legal obligation to accurately maintain their safety and health records. Nevertheless, OSHA recognizes that some employers might break the law by falsifying records as was the case even before the records-review procedure was instituted. For this reason, OSHA requires its inspectors to take reasonable steps to verify injury and illness records. This can be done in several ways. For instance, OSHA cross-checks employers' records against a random sample of workers compensation first reports of injury. OSHA also interviews employees and their representatives to determine the accuracy of employers' records. In addition to these measures, a further check is provided as employers are required to post annual summaries of their safety and health logs.

It should be noted that the OSH Act provides for penalties, including fines of as much as $10,000 or imprisonment of up to six months, for making false statements on any records required by the Act. OSHA also enforces a regulation (29 CFR 1904.2(a)) requiring employers to maintain the log and summary and to record all reportable injuries and illnesses on these documents.

Question: What efforts are being made to check the accuracy of occupational safety and health statistics?

Answer: OSHA has provided $500,000 to the Bureau of Labor Statistics to conduct a study of the accuracy and quality of occupational safety and health statistics. Special attention will be paid to worksite recordkeeping.

STATE OSHA RESOURCES

Question: You are not requesting any increase for State OSHA enforcement, for which the Federal government provides 50 percent matching funds. Where do the Federal matching funds come from if States increase their OSHA budgets?

Answer: Section 23(g) of the Act provides for Federal funding of State plans at up to 50 percent of the total costs of the programs. If States increase their budgets to an amount beyond that for which Federal matching funds are available, OSHA then funds the States at less than 50 percent of their request level. The States then may either make up the difference with State funds, resulting in a total State program funded at, for example, 45 percent Federal, 55 percent State share, or they may reduce the State dollars to equal the Federal match. (A few States are prohibited from spending State funds in excess of the Federal match.) Language included in OSHA's appropriation also prohibits the Agency from requiring the States to expend more than an amount equal to the Federal share.

Question: Where do the Federal matching funds come from if more States convert from Federal to State plans?

Answer: If a new State plan were submitted to OSHA for approval and funding, it would be necessary for the Administration to first determine whether funding an additional State plan would be an appropriate use of scarce Federal resources. Because of appropriations language that has been included in OSHA's budget for a number of years, the Agency cannot approve a State plan if it is unable to fund it. ("... which shall be the maximum amount available for grants to States ... which grants shall be no less than 50% of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary ....") Thus, OSHA will work with a State to develop an approvable plan, if the State wishes, but with the understanding that until such time as funds become available the formal plan approval process cannot be undertaken. Absent the appropriations language, OSHA would be obliged to significantly reduce the funds available to the 25 existing State plans if it were to fund a new program. As a matter of policy, OSHA believes it should give priority funding consideration to existing State programs.

CONVERTING FROM FEDERAL OSHA TO STATE GRANTS

Question: As OSHA grants more States full independence from Federal supervision, how does it employ Federal inspectors who used to inspect in those States?

Answer: Only limited Federal inspections are conducted in State plan States. These include inspections of worksites not covered by State plans, such as maritime employers, Federal agency facilities, and employers working on Federal land. These inspections will be continued when final approval is given to a State plan.

INFORMING WORKERS OF POTENTIAL HAZARDS

Question: OSHA's recently issued "workers' right-to-know" standard gives only manufacturing workers, importers, and distributors the right to information sheets informing them of the hazards of the substances with which they work. Since OSHA conducts so few health inspections, and virtually none in small businesses, wouldn't it be wise to broaden the "right-to-know" standard to include all workers? If you don't broaden the "right- to-know" standard to include all workers, how can you be sure that all current and future workers are protected from exposure to cancer or other illness-causing substances?

Answer: OSHA's Hazard Communication Standard (HCS) (29 CFR 1910.1200) provides direct coverage for 14 million workers exposed to hazardous chemicals in over 300,000 manufacturing facilities. Over half of reported illnesses related to chemical exposures occur in this industrial sector, although it only accounts for about 30 percent of total employment. This disproportionate occurrence of chemical source illnesses in manufacturing appears to indicate that, in general, non-manufacturing employees are more likely to be exposed to fewer chemicals, or to experience lower exposure levels, than those employees involved in manufacturing. Therefore, OSHA determined that the need for comprehensive hazard communication requirements was greatest for employees in the manufacturing sector.

However, the HCS also provides limited protection for those employees in non-manufacturing industries, since every container of a hazardous chemical which is shipped from a manufacturing workplace must be labeled with the identity of the chemical, appropriate hazard warnings, and the name and address of the responsible party. In addition, generation of material safety data sheets, in response to the requirements of the HCS in the manufacturing sector, will greatly increase their availability in the nonmanufacturing industries as well. Thus workers using these chemicals in other workplaces will have some information on them. In addition, OSHA's Access to Employee Exposure and Medical Records regulation (29 CFR 1910.20) gives these employees the right to obtain information concerning their exposures to toxic substances and the results of any medical surveillance conducted by their employers.

It should also be noted that employees in these non-manufacturing industries are protected from exposure to many hazardous chemicals by existing OSHA standards for approximately 400 chemical substances. These existing standards cover many of the commodity chemicals that are used frequently in industry. These permissible exposure limits, combined with the required label information, increasingly available data sheets, and provisions in the Access regulation, provide substantial protection for employees in sectors outside manufacturing.

OSHA recently asked its National Advisory Committee on Occupational Safety and Health (NACOSH) to consider the necessity and feasibility of expanding the scope of the HCS to cover non-manufacturing industries, and to provide the Committee's recommendations to the Assistant Secretary. The Agency expects to receive these recommendations later this year.

STATE "RIGHT-TO-KNOW" LAWS

Question: What are your views on granting approval to State workers' "right-to-know" laws that cover more workers and more substances than the Federal OSHA standard?

Answer: Under Section 18 of the Occupational Safety and Health Act, States may only assume responsibility for development and enforcement of a standard related to Hazard Communication under the auspices of an OSHA-approved State plan. States operating such plans may choose to implement Hazard Communication requirements through a State Right-to-Know law or through a State occupational safety and health standard. Where these laws/standards differ from the Federal, they must be found to be "at least as effective" as the Federal standard, pose no undue burden on interstate commerce, and be required by compelling local conditions. (The "product clause" of Section 18(c)(2) applies to Hazard Communication because the standard is applicable to products used or distributed to interstate commerce.) The 25 States which have OSHA-approved State plans (23 covering private and public sector workers, two covering public employees only) are currently engaged in developing and receiving approval for their Hazard Communication requirements. Where different coverage and requirements are adopted, OSHA will first assess whether the State requirements are "at least as effective" and then seek public comment on the product clause aspects. (The State may enforce its standard/law until and unless it is formally rejected by the Assistant Secretary.) OSHA does not believe the State extension of coverage, alone, would be grounds for rejection.

Those States which have not made a State plan commitment to occupational safety and health are preempted from addressing the issue of Hazard Communication. State plans are expected to cover a relatively broad area of occupational safety and health and must include enforcement provisions, as well as standards, which are at least as effective as the Federal model. OSHA would have serious doubt as to the approvability of a single-issue State plan premised on an independent State Right-to-Know law.

There is a common misconception that the State Right-to-Know standards in non-State plan States are "more stringent" than the Federal Hazard Communication Standard (HCS). While it is true that most directly cover more workers, the specific provisions of the standards would generally not meet the "at least as effective" criterion used to evaluate State plan standards. All of them cover fewer substances, some do not include labeling provisions, others do not have training or material safety data sheets, and none have written communication program requirements. Furthermore, it is our understanding that few of these States have enforcement capabilities commensurate with the tasks they have undertaken. In the State plan approval process, these types of deficiencies would be identified and corrected. It is our position that States have the State plan option if they choose to make a commitment to assuming responsibility in the broad area of occupational safety and health. Otherwise, the Federal standard, which provides better protection and is supported by enforcement capability, will prevail.

TRAINING GRANTS

Question: Your budget proposes to cut new training and education grants from 105 in Fiscal 1985 to 76 in Fiscal 1986. What changes do you have in mind to make better use of reduced training and education funding?

Answer: New grants will be awarded for the development of training and education which address targeted safety and health objectives. The project objectives will be based on BLS data, hazard identification data, Agency standards, Agency program emphasis, and other information. Grants will focus on the development of safety and health training and education programs specific to identified objectives.

Question: Will any of the existing "New Directions" training grants be terminated?

Answer: OSHA plans to fund 76 grants in Fiscal Year 1986, including all New Directions grants originally funded in Fiscal Year 1984 which are meeting program objectives. These New Directions grants will be continued so that grantees can reach institutional competency within three to five years.

CONVERTING FROM FEDERAL TO STATE OSHA

Question: Your budget has no increase in it for State OSHA enforcement. Does this prevent you from approving conversion from Federal to State OSHA, due to lack of resources?

Answer: As noted in response to a previous question, if a new State plan were submitted to OSHA for approval and funding, it would be necesary for the Administration to first determine whether funding an additional State plan would be an appropriate use of scarce Federal resources. Because of appropriations language that has been included in OSHA's budget for a number of years, the Agency cannot approve a State plan if it is unable to fund it. ("...which shall be the maximum amount available for grants to States...which grants shall be no less that 50% of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary....") Thus, OSHA will work with a State to develop an approvable plan, if the State wishes, but with the understanding that until such time as funds become available the formal plan approval process cannot be undertaken. Absent the appropriations language, OSHA would be obliged to significantly reduce the funds available to the 25 existing State plans if it were to fund a new program. As a matter of policy, OSHA believes it should give priority funding consideration to existing State programs.

Question: Why not have a contingency fund to provide resources once States initiate their own OSHA plans?

Answer: OSHA does not believe that requesting a contingency fund would be prudent fiscal policy. A decision to request resources for State plans or any other facet of the OSHA program must be made within the context of competing program interests and based on a measured program decision which reflects the best use of scarce Federal resources.

Question: How much of an increase over your budget request will be needed to maintain current services in State OSHA plans?

Answer: A mandatory increase of $2,545,000 for State operational grants and $210,000 for BLS State grants would be needed to maintain a current service level for State programs.

PROTECTING SERVICE-SECTOR WORKERS

Question: Since the service sector, which uses a significant number of toxic substances, is: 1) generally excluded from the workers' right-to-know standard; and 2) has many businesses too small to be covered by regularly scheduled health inspections, how do you aim to protect its workers adequately?

Answer: The Hazard Communication Standard (HCS) provides limited protection for employees in the sector, since every container of a hazardous chemical which is shipped from a manufacturing facility must be labeled with the identity of the chemical, appropriate hazard warnings, and the name and address of the responsible party. Thus workers using these chemicals in service sector workplaces will have some information on them. In addition, OSHA's Access to Employee Exposure and Medical Records regulation (29 CFR 1910.20) gives these employees the right to obtain information concerning their exposures to toxic substances and the results of any medical surveillance conducted by their employers. In those businessess too small to be covered by regularly scheduled health inspections, OSHA will, of course, respond to all formal employee complaints.

OSHA recently asked its National Advisory Committee on Occupational Safety and Health (NACOSH) to consider the necessity and feasibility of expanding the scope of the HCS to cover non-manufacturing industries, and to provide the Committee's recommendations to the Assistant Secretary. The Agency expects to receive these recommendations later this year.

QUESTIONS SUBMITTED BY SENATOR LAWTON CHILES

BIOTECHNOLOGY

Question: I have recently reviewed the recommendations of the Cabinet Council Working Group on Biotechnology for a framework for regulating biotechnology. The comments and recommendations of the Environmental Protection Agency, the Department of Agriculture, and the Food and Drug Administration were all very interesting. I was, however, surprised not to find comments from OSHA on this matter. Were you asked to make comments and recommendations about the regulation of biotechnology and the Federal role.

Answer: OSHA has been represented on the Cabinet Council Working Group on Biotechnology since its inception. OSHA has participated in every meeting and, as such, was involved in the concept, policy, format and substance of the Working Group's publication in the Federal Register, December 31, 1984.

OSHA's legislative base and regulations applicable to biotechnology were contained in the matrix of biotechnology authorities, Federal Register, pages 50856 and 50857. Since OSHA neither issues permits nor reviews and approves applications, as do EPA, USDA and FDA, it was decided that OSHA not include a comment section in the Federal Register as these programs had done.

BIOTECHNOLOGY

Question: Do you think that your Agency should be interested in the workplace environment where employees and scientists are regularly exposed to novel organisms or substances?

Answer: OSHA's concern is solely for the safety and health of employees under its jurisdiction. If a significant risk is shown to exist in research and development, manufacture or application of any material, including biotechnological materials, it will be addressed by the Agency.

Question: Do you plan to submit comments and recommendations on this critical issue in the near future?

Answer: Agency guidelines on biotechnology are in preparation.

Question: I would also be extremely interested in your views on the regulatory requirements that have been applied to commercial biotechnologies and your assessment of workplace safety problems, if any, associated with the commercialization of this technology.

Answer: The OSH Act, in particular Section 5(a) which requires each employer to furnish a place of employment free from recognized hazards and requiring employers to comply with standards, together with applicable specific standards, negates the need at this point in time for additional legislation or regulation. At present, biohazards in current processes may well be less dramatic than the currently identified hazards found in conventional chemical processing operations. Commercialization of biotechnology is quite similar to commercialization of other products in that similar plant structures and processes are utilized.

QUESTION SUBMITTED BY SENATOR DANIEL K. INOUYE

OCCUPATIONAL HEALTH NURSES

Question: Last year, the Committee at Senator Inouye's request quest, engaged in considerable discussions with OSHA regarding why the hazard communication standards did not expressly authorize occupational health nurses to be deemed eligible to have access to specific chemical identities (trade secrets) in non-emergency situations since more than 75 percent of the work settings rely exclusively upon nurses for their on-sight health care. OSHA assured the Committee that it would work closely with the American Association of Occupational Health Nurses to ensure greater participation by these professionals in OSHA's programs and, further, the Committee was informed that serious consideration was going to be given to appointing a nurse to the OSHA National Advisory Committee. What has transpired since last year's hearings?

Answer: OSHA has long recognized the importance of occupational health nurses in job-related health programs and has worked with the American Association of Occupational Health Nurses (AAOHN) since last year's appropriations hearings. Of particular note has been AAOHN's participation in peer review of OSHA work and the appointment of Anne J. Murphy, a member of AAOHN, as a representative to the National Advisory Committee on Occupational Safety and Health. In addition, the Assistant Secretary has met with representatives of the Association to discuss issues of mutual interest.

SUBCOMMITTEE RECESS

Senator PROXMIRE. The subcommittee will now stand in recess until Tuesday, March 5, when we will hear from the Secretary of Health and Human Services, Margaret Heckler, on the fiscal year 1985 budget for the Department of Health and Human Services.

The hearing will convene at 9:30 in this room.

Mr. ROWLAND. Thank you, Senator.

Senator PROXMIRE. Thank you very much.

[Whereupon, at 11:12 a.m., Friday, March 1, the subcommittee was recessed, to reconvene at 9:30 a.m., Tuesday, March 5.]

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